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136-348

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1889.

No. 153.

J. M. B. REYNOLDS, ASSIGNEE OF JOHN H. ADDEN, APPELLANT,

vs.

JOHN ADDEN, JOHN H. ADDEN, AND THOMAS DUFFY, CIVIL SHERIFF OF THE PARISH OF ORLEANS.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

FILED OCTOBER 11, 1886.

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INDEX.

	Original.	Print.
Caption	1	1
Transcript from State court	2	1
Petition	3	1
Bond	12	6
Order for rule	13	6
Exhibit A to petition—Letter of Reynolds to Parker, May 4, 1882	14	7
B to petition—Letter of Parker to Reynolds, May 5, 1882	15	7
Rule *nisi*	15	8
Sheriff's return	16	8
Order making rule *nisi* absolute	17	8
Document marked "D"—Record in insolvent court of Middlesex county, Massachusetts, in the matter of John H. Adden, insolvent debtor	18	9
Petition	18	9
Order for warrant	20	10
Warrant	20	10
Officer's return	22	11
Assignee's acceptance	23	12
Assignee's bonds	24	12
Certificates	26	13

JUDD & DETWEILER, PRINTERS, WASHINGTON, NOVEMBER 9, 1889.

	Original.	Print.
Testimony of J. M. B. Reynolds	215	105
Agreement to use testimony in both suits	264	131
Testimony of Mrs. Mary Weber	264	131
Henry Weber	271	135
J. M. B. Reynolds (recalled)	279	135
Thomas Griffen	282	140
Thomas Bell	286	143
Chris. Stock	291	145
Henry Marks	300	150
Statutes of Massachusetts, 1882, particularly chapter 157, section 1, pp. 879, 880, and sections 43, 44, 46, page 886; also chapter 143, section 1, page 801 (not set out here)	305	153
Testimony of F. M. Boize	306	153
G. J. Rathe	308	154
Thomas W. Muller	316	159
J. M. B. Reynolds, correcting stenographer's notes	319	160
Sheriff's inventory of contents of safe at 58 Custom-House street	321	161
Testimony of William Walsh	322	162
Letter of instructions as to seizure and what was seized in Adden suits	325	164
Testimony of E. S. Wurzburger	347	176
Copy of schedule on insolvency of John H. Adden	352	178
Extracts from testimony of John Adden	370	189
Copy of John Adden's appointment as assignee of Damon, Temple & Co.	390	199
Testimony of Ambrose Eastman and affidavits of said Eastman and W. N. Mason	395	202
Subpœna addressed to George W. Weber	409	209
Attachments issued for arrest of George W. Weber	412	210
Defendant's offerings	414	211
Testimony and evidence on behalf of John Adden, taken before E. R. Hunt, commissioner, May 1st, 1884	414	211
Deposition of Eliab Parker	415	212
Albert P. Damon	415	212
Waldo E. Perkins	415	212
Isaac M. Clark	415	212
Edward F. Parker	415	212
Wendell Bancroft	415	212
Chester B. Jordan	415	212
Erastus V. Cobleigh	415	212
Jonas Powers	415	212
Edward F. Adden	415	212
Oscar F. Bothell	415	212
Ossiam Ray	415	212
Commission, notes, end interrogatories	416	212
Deposition of John H. Adden	442	224
A. V. Lynde	456	230
W. W. Davis	463	232
Albert P. Damon	469	234
Eliab Parker	477	237
S. E. Parker	485	240
Decree on motion to remand	497	245
Certificate of clerk of this court, dated November 25, 1883	497	245

	Original.	Print.
Eight notes annexed to commission dated May 1st, 1883, numbers 1, 2, 3, 4, 5, 6, 7, 8	498	245
Three notes annexed to same commission, marked A, B, C	498	245
Commission and interrogatories	499	246
Deposition of John H. Adden under commission dated Jan. 5, 1886	506	249
Eliab Parker	509	250
Stillman E. Parker	512	251
Albert P. Damon	514	252
Alonzo V. Lynde	518	254
Edward F. Adden	522	256
Affidavit of C. S. Kellogg	528	258
Section 6 of chapter 76, page 425, Revised Statutes Massachusetts, published in 1882–'5	528	259
Section of prior edition of General Statutes	529	259
Note of evidence filed Nov. 24, 1883, and evidence therein specified	529	259
Decree	530	260
Motion for appeal	531	260
Bond for appeal	531	261
Clerk's certificate	534	262

1 UNITED STATES OF AMERICA:

Circuit Court of the United States, Eastern District of Louisiana.

J. M. B. REYNOLDS, Assignee, Appellant,
vs.
JOHN ADDEN *et als.*, Appellees.
} No. 10405.

Blanc & Butler, Esqs., for appellant.
C. S. Kellogg and E. N. Whittemore, Esqs., for appellees.

Transcript of Appeal.

Appeal returnable to the Supreme Court of the United States, at the city of Washington, D. C., on the second Monday of October, A. D. 1886.

2 *Transcript from Civil District Court. Filed Nov.* 5, 1883.

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN & *al.*
} No. 5586. Civil Dist. Court.

Blanc & Butler, att'ys for plaintiff.
E. N. Whittemore, Esq., and C. S. Kellogg, Esq., att'ys for d'f'ts.

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

3 JOHN MICHAEL BREWSTER REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.*
} No. 5586. Civil District Court.

Petition. Filed May 10th, 1882.

To the honorable the civil district court for the parish of Orleans, State of Louisiana:

The petition of John Michael Brewster Reynolds, a resident of Boston, Suffolk county, Commonwealth of Massachusetts, respectfully represents—

That on or about the 10th day of March, A. D. 1882, John H. Adden, a resident of the town of Reading, in the county of Middlesex, Commonwealth of Massachusetts, presented a sworn petition to the court of insolvency in said county and Commonwealth representing his inability to pay his debts and his desire — all his property for the benefit of his creditors according to the laws of said Commonwealth.

4 That on the day aforesaid the said court, considering said petition and being satisfied of the truth of the statements therein contained, ordered a warrant to be issued thereon to the sheriff of the said county of Middlesex, or either of his deputies, directing him forthwith as messenger to take possession of all the estate, real & personal, of said insolvent debtor, John H. Adden, and all his deeds, books of account, & papers, and to keep the same until the appointment of an assignee; and furthermore directing said messenger to make public notice in the Boston Daily Globe and to send written notice within five days after the date of said order to said debtor and to all the creditors of said debtor notifying them that said warrant had issued against the estate of said debtor; that the payment of any debts and the delivery of any property belonging to said debtor to him or for his use and the transfer of any property by him are forbidden by law, and that a meeting of the creditors of the debtor to prove their debts and choose one or more assignees of his estate would be held at said court of insolvency at Cambridge, in said county of Middlesex, on the 23rd of March, 1882.

That upon the 23rd of March, 1882, said messenger made return of said warrant, showing that thereunder he had taken possession of the estate of the within-named insolvent, had published notice in the newspaper aforesaid, and sent written notice to the creditors named on the debtor's schedule delivered by said debtor to said messenger on the 11th of March, 1882, in conformity to the directions set out in said warrant.

5 That on the 23rd of March, 1882, Stillman E. Parker, of the town of Reading, and your petitioner were duly chosen and appointed assignees in the case of said John H. Adden, insolvent, and notice of said appointment was on that day given said assignees by the register of said court of insolvency; that on the day last mentioned said assignees accepted in writing the trust of assignee of the estate of the above-named insolvent debtor, and on that day said Stillman E. Parker gave bond conditioned that he would well and truly execute and perform all and singular the duties appertaining to his said trust as assignee, etc., with John Adden, of said town of Reading, county of Middlesex, State of Massachusetts, as his surety, in the sum of ten thousand dollars; and on the day last aforesaid your petitioner in a like manner gave bond in a like sum and under like conditions, with John P. Robinson, of Boston, Massachusetts, as his security.

Which said bonds were duly approved by the Honorable George M. Brooks, judge of said court of insolvency.

That upon the completion of the foregoing legal requisites your petitioner and his co-assignee, Stillman B. Parker, obtained from the aforesaid messenger of said insolvent estate possession of all the property, real and personal, appertaining thereto, or the right to such possession, wherever said property was then located, either in the State of Massachusetts or elsewhere, and thereupon entered upon the discharge of their aforesaid trust as assignees of said estate.

Petitioner further shows that, as appears from the schedule of as-

sets filed by said insolvent with his petition in insolvency,
6 on the 10th day of March, 1882, there was in his store, No. 58 Custom-House street, New Orleans, Louisiana, about 600 cases of shoes valued at $18,341.47, and accounts, notes, and drafts due in Louisiana, Arkansas, Mississippi, Texas, Tennessee, and Alabama, amounting to about $280,000.00; sundry notes, drafts, and accounts due to the Boston store, amounting to about $10,000.00, with other assets in the city of Boston not valued in said schedule, but in the city of Boston, amounting to about $3,000.00.

Petitioner further shows that in the further discharge of his duties as assignee he came to New Orleans, Louisiana, on the 12th day of April, 1882, with a view to take physical possession of all the assets in said State, as well as to acquire possession of the property of said insolvent elsewhere than in the State of Massachusetts; that then and there your petitioner for the first time discovered that on the 16th of March, 1882, John Adden, alleging himself to be a resident of the State of Massachusetts, had brought suit in this honorable court against the said insolvent debtor, John H. Adden, for twenty thousand dollars upon certain notes, to be filed, and further alleging that said John H. Adden resided permanently out of the State of Louisiana and was represented in said State by George W. Webre, as agent, upon whom citation could be served (upon affidavit and bond), — obtained an attachment of all the property, rights, and credits of said John H. Adden within the jurisdiction of this honorable court, and on the 17th day of said month caused citation and a copy of the petition in said suit to be served on said George
7 Webre, as agent of said John H. Adden; that on the 29th day of said month judgment by default was therein entered against said John H. Adden, which judgment was confirmed on the 3rd day of April, 1882, with lien and privilege upon the property attached and signed on the 10th day of April, 1882, as will more fully appear by reference to the record and proceedings had in said suit in 5586 of the docket of this honorable court.

Petitioner further shows that upon his arrival in the city of New Orleans as aforesaid he also learned that said John Adden had, on the 4th of April, 1882, again representing himself a resident of the State of Massachusetts, obtained a second attachment of the property, rights, and credits of said John H. Adden in the city of New Orleans, in another suit based upon a series of notes drawn by said John H. Adden at Boston, Massachusetts, to his own order and by him endorsed, amounting to $6,283.10, as will more fully appear from the record of said suit, known on the docket of this honorable court as No. 5738.

Now, your petitioner shows unto your honor that the aforesaid proceedings thus instituted and prosecuted by said John Adden were and are illegal, null, and void, and the same should be declared inoperative and without the slightest force or effect for the following reasons, viz:

First. The aforesaid insolvency and surrender of said John H. Adden, a citizen of the Commonwealth of Massachusetts, to the court of insolvency in and for the county of Middlesex, in said Common-

wealth, of all his property for the benefit of his creditors ac-
8 cording to the statutes of said State; the acceptance of said surrender and the proceedings in said insolvency operated as a legal bar to said John Adden, also a resident of said Commonwealth of Massachusetts, and prevented him from lawfully asserting any rights as a creditor of said insolvent elsewhere than in the said court of insolvency in said Commonwealth of Massachusetts.

2nd. The judgment rendered as aforesaid in suit No. 5586 of the docket of this honorable court and the seizure and proceedings had under said judgment are furthermore illegal because said judgment was obtained without service of citation upon said defendant in said suit, the pretended service of citation upon said John H. Adden through George W. Webre, as agent of said Adden, being absolutely null and without legal effect, said agency, if any ever existed, having terminated before the institution of said suit by the failure and insolvency of said John H. Adden on the 10th day of March, 1882, as aforesaid.

3rd. The judgment aforesaid is furthermore illegal and without valid effect because obtained without any proof being formerly offered and received upon which to support said judgment.

4th. The property attached in the aforesaid suits of John Adden *vs.* John H. Adden was not, at the date of said attachments nor has it been since, either in whole or in part, the property of said John H. Adden, the same having been surrendered by him to his creditors prior to the issuance of said attachments. Title thereto from the date of said surrender vested in all the creditors of said John H. Adden.

9 Further, petitioner shows unto the court that said John Adden is the father of said John H. Adden and has managed his business in the city of New Orleans for many years; that he was always fully advised as to the true condition of said business and well knew of his said son's financial embarrassment and practical insolvency long before the fact became known to the creditors of that business; that, notwithstanding such knowledge on the part of said John Adden, the latter has illegally and knowingly held out and aided and assisted said John H. Adden in holding out to the creditors that he was solvent; that with said John Adden's connivance and assistance and when they both well knew that the entire assets of John H. Adden, except an insignificant portion thereof, were in the State of Louisiana, said John H. Adden made a surrender to his creditors in the State of Massachusetts, without at the same time going into insolvency in the State of Louisiana, thereby unlawfully aiding and assisting said John Adden in attaching the assets of said John H. Adden in the State of Louisiana and obtaining judgment by default in said attachment suit, with privilege upon the property attached for about $20,000.00, before the creditors or your petitioner could be informed or advised of said attachment; that to permit said judgment and the proceedings thereunder to have effect and execution would enable said John Adden to perpetuate a gross fraud upon petitioner and the creditors of said John H. Adden, to their

great and irreparable loss and injury, and a writ of injunction is necessary in the premises.

Petitioner further shows that as soon as he had knowledge of the facts set forth in the foregoing petition he notified his aforesaid co-assignee, Stillman E. Parker (who was in the city of New Orleans when petitioner arrived here on the 12th of April, 1882, and has been in said city ever since), and suggested the propriety and importance of taking action to annul and set aside the attachments, judgment, and seizure in the aforesaid suits and suit of said John Adden *vs.* John H. Adden, which actions, however, said co-assignee declined to take without conference with certain other parties, and your petitioner, being advised that further delay would jeopardize the interest of the creditors, on the 4th day of May, 1882, addressed a communication to said co-assignee, of which the annexed exhibit, marked "A," is a copy, and on the following day petitioner received the annexed written refusal on the part of said co-assignee to co-operate with your petitioner, marked Exhibit "B."

Wherefore petitioner prays that John Adden, John H. Adden, and Thomas Duffy, civil sheriff of the parish of Orleans, be cited to appear and answer this petition; citation on John H. Adden, an absentee, to be made through a *curator ad hoc* to be appointed to represent him herein.

That a writ of injunction may issue herein in conformity to law enjoining and restraining John Adden from prosecuting or in any way or manner attempting to enforce the aforesaid judgment in the suit entitled John Adden *vs.* John H. Adden, No 5586 of the docket of this hon. court, and furthermore enjoining and restraining Thos. Duffy, civil sheriff of the parish of Orleans, and his deputies from advertising or selling the goods and merchandize in the store No. 58 Custom-House street, New Orleans, or the property, rights, credits, books, papers, notes, assets, safe contents, or any part or portion thereof of defendant, John H. Adden, seized in said suit, and furthermore enjoining and restraining said John Adden from proceeding any farther in the suit of John Adden *vs.* John H. Adden, No. 5738 of the docket of this honorable court.

That after due proceedings judgment may be herein rendered in favor of your petitioner as assignee of John H. Adden, insolvent debtor, decreeing the aforesaid proceedings in the said suits entitled John Adden *vs.* John H. Adden, numbered 5586 and 5738, respectively, on the docket of this honorable court to be absolutely null and void, the attachments therein wrongfully issued and obtained, and the judgment, writ of *fieri facias*, and seizure in said suit No. 5586 of the docket illegal and without any force or effect; furthermore ordering and commanding said civil sheriff to release and turn over to your petitioner all the property, rights, credits, accounts, claims, books, safe and contents, and other properties seized under the aforesaid writs and judgments, free from all costs and charges, and furthermore decreeing and perpetually enjoining said John Adden and said sheriff from further proceeding in any way or

manner in the aforesaid suits. Petitioner further — for costs and for general relief in the premises.

(Signed) SAM'L P. BLANC,
Att'y for Pet'r.

12 *Affidavit.*

STATE OF LOUISIANA, *City of New Orleans:*

J. M. B. Reynolds, being duly sworn, doth depose and say that he is plaintiff in the foregoing petition named, and that all the facts and allegations therein contained are true to the best of deponent's knowledge, information, and belief.

(Signed) J. M. B. REYNOLDS.

Subscribed and sworn to before me this 10th day of May, 1882.

(Signed) MARK BREEDEN, JR.,
Notary Public.

Bond. Filed May 10th, 1882.

Know all men by these presents that we, J. M. B. Reynolds, assignee, as principal, and Brownley W. Taylor, as security, ofthe city of New Orleans and State of Louisiana, are held and firmly bound unto John Adden, John H. Adden, and Thomas Duffy, civil sheriff of the parish of Orleans, in the sum of five thousand dollars, lawful money of the United States of America, to be paid to said John Adden, John H. Adden, and Thomas Duffy, civil sheriff, their and each of their heirs, executors, administrators, and assigns; for which payment, well and truly to be made, we bind ourselves and
13 each of us by himself and each of our heirs, executors, administrators, firmly by these presents.

Sealed with our seals and dated the 10th day of May, in the year of our Lord 1882.

Whereas the said J. M. B. Reynolds, assignee, has this day presented a petition to the honorable the civil district court for the parish of Orleans, praying for a writ of injunction:

Now, the condition of the above obligation is that we, the above-bound J. M. B. Reynolds, assignee, and Brownlee W. Taylor, will well and truly pay to the said John Adden, John H. Adden, and Thos. Duffy, civil sheriff of the defendant in said writ, all such damages as they may recover against us in case it should be decided that the injunction was wrongfully obtained.

(Signed) J. M. B. REYNOLDS, *Assignee.* [SEAL.]
(Signed) B. W. TAYLOR. [SEAL.]

Signed, sealed, and delivered in the presence of—
(Signed) FRANK N. BUTLER.

Order.

Let a rule *nisi* issue herein, returnable on Friday, the 12th day of May, 1882, at 11 o'clock a. m., why the writ of injunction herein

prayed for should not issue, and let Thomas R. Rozier, Esq.,
14 be appointed *curator ad hoc* to represent John H. Adden, one of the absent defendants.

New Orleans, May 10th, 1882.

(Signed) W. T. HOUSTON, *Judge.*

EXHIBIT A, Annexed to Petition.

NEW ORLEANS, *May 4th*, 1882.

Stillman E. Parker, Esq., 58 Custom-House St., New Orleans.

DEAR SIR: As you are no doubt aware Messrs. E. and A. H. Batcheller & Co., of Boston, have enjoined the sheriff from selling the goods and effects of John H. Adden to satisfy the judgment of John Adden, I am satisfied that it is our duty, as assignees, to intervene in the suit and join Batcheller & Co. in their efforts to destroy John Adden's judgment against John H. Adden, so that we may get possession of the property attached. I would be glad to have you co-operate with me in such intervention in the Batcheller suit, that we may thus secure for all the creditors their equal and just rights in the premises. If you are unwilling to take action with me in behalf of all the creditors, please let me know it. I
15 shall await your answer until noon to-morrow.

Resp'y yours,

(Signed) J. M. B. REYNOLDS.

EXHIBIT "B," Annexed to Petition.

NEW ORLEANS, *May 5th*, 1882.

John M. B. Reynolds, Esq.

DEAR SIR: Your favor of yesterday has come to hand, and in reply would say that, as Batcheldor & Co. have brought suit to annul the claim of John Adden, and if successful it enures to the benefit of all the creditors we represent, I do not think it judicious to incur expense and lawyers' fees, and therefore decline to intervene.

Respectfully yours,

(Signed) S. E. PARKER, *Assignee.*

Rule Nisi. Issued May 10th, 1882.

Civil Dist. Ct., Division "B."

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et al.*
No. 5586.

16 STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et al.*
No. 5586.

State of Louisiana to John Adden, John H. Adden, thro' Thomas R. Rozier, *curator ad hoc*, and Thomas Duffy, civil sheriff, Greeting:

You are hereby commanded, in the name of the State of Louisiana and of the civil district court for the parish of Orleans, to show cause, on Friday, the 12th day of May, 1882, at 11 o'clock a. m., why the writ of injunction herein prayed for should not issue; and what you do in the premises you make return thereof, together with this writ, to our said court, as the law directs.

Witness the Honorables A. L. Tissot, W. T. Houston, F. A. Monroe, N. H. Rightor, Henry L. Lazarus, judges of our said court, this 10th day of May, in the year of our Lord one thousand eight hundred and eighty-two, and in the one hundred and sixth year of the Independence of the United States.

(Signed) ALEX. T. DONOVAN, *D'y Clerk.*

Sheriff's Return to Rule Nisi.

17 Rec'd May 10th, 1882; same day, month, and year civil sheriff accepted service.

Ret. same day.

(Signed) A. McCONNELL, JR.,
Deputy Sh'ff.

And on the 10th day of May, 1882, I served a copy of the within rule *nisi* on John H. Adden, defendant herein, through Thomas R. Rozier, *curator ad hoc*, in person.

(Signed) JOHN E. SIEKFORT, *D'y Sh'ff.*

And on the 11th day of May, 1882, I served a copy of the within rule *nisi* personally on John Adden, defendant herein. Ret. same day.

(Signed) JOHN E. SIEKFORT, *D'y Sh'ff.*

Rule Nisi Absolute.

Extract from the Minutes of Division "B."

FRIDAY, *May 12th*, 1882.

Present: Hon. W. T. Houston, judge.

Div. "B," C. D. C.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN & *al.*
No. 5586.

The application for an injunction herein, taken on the 10th
18 inst., came on this day for trial.

Sam'l P. Blanc, for plaintiff in rule; Thos. R. Rozier, *curator ad hoc;* Kellogg & Whittemore, for defendants in rule.

For the reasons orally assigned in open court—

It is ordered that said rule be made absolute, and accordingly that an injunction be granted herein, with leave to defendants to move to dissolve the same.

Document Marked "D,"

Being a copy or transcript of the record in the insolvent court of Middlesex county, Massachusetts, in the matter of J. H. Adden, insolvent debtor, &c.

Filed May 12th, 1882.
(Signed) E. A. LUMINAIS, *Dep'ty Cl'k.*

Division "B," Civil D't C't.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et al.*
No. 5586.

To the honorable the judge of the court *of the court* of insolvency in and for the county of Middlesex, in the Commonwealth of Massachusetts:

19 Respectfully represents John H. Adden, of Reading, in the said county—

That he is an inhabitant of this State and is indebted in divers sums of money, amounting in the whole to not less than two hundred dollars, contracted while such inhabitant, which he is unable to pay in full, and he wishes to surrender all his property for the benefit of his creditors and to obtain a discharge of his said debts according to the statutes in this behalf provided.

Wherefore he prays that a warrant may be issued for taking possession of his estate, and that such further proceedings may be had in the premises as the law in such cases prescribes.

Dated this tenth day of March, in the year of our Lord one thousand eight hundred and eighty-two.

(Signed) JOHN H. ADDEN.

MIDDLESEX, *ss:*

MARCH 10TH, 1882.

Then personally appeared the above-named John H. Adden and made solemn oath that the statements contained in the foregoing petition by him subscribed are true.

Before me—

(Signed) ALONZO V. LYNDE,
Justice of the Peace.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex,* } *ss:*

20 CAMBRIDGE, *March 10th*, 1882.

The foregoing petition having been duly considered, and it appearing to the satisfaction of the court that the statements therein contained are true, it is ordered that a warrant thereon be issued.

(Signed) GEORGE M. BROOKS,
Judge of Court of Insolvency.

Warrant.

In the Case of JOHN H. ADDEN, Insolvent Debtor.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex,* } *ss:*

To the sheriff of said county of Middlesex or either of his deputies, Greeting: [SEAL.]

You are hereby directed forthwith as messenger to take possession of all the estate, real and personal, of John H. Adden, of Reading, in said county, insolvent debtor, except such as may be by law exempt from attachment, and of all his deeds, books of ac-
21 counts, and papers, and keep the same safely until the appointment of an assignee.

And you are also directed to publish notice twice in the newspaper called the Boston Daily Globe, printed at Boston, in the county of Suffolk, the first publication to be made forthwith, and to send written notice, by mail or otherwise, within five days after the date hereof to said debtor and to all the creditors upon the schedule of his creditors to be furnished you by him within three days after the date hereof, which notice shall state—

First, that this warrant has issued against the estate of said debtor.

Second, that the payment of any debts and the delivery of any property belonging to said debtor to him or for his use and the transfer of any property by him are forbidden by law.

Third, that a meeting of the creditors of the debtor to prove their

debts and choose one or more assignees of his estate will be held at the court of insolvency to be holden at Cambridge, in said county of Middlesex, on the twenty-third day of March instant, at ten o'clock in the forenoon.

And have you there this warrant, with your doings thereon.

In testimony whereof I have hereunto set my hand and caused the seal of the court of insolvency to be affixed, at Cambridge, this tenth day of March, in the year of our Lord one thousand eight hundred and eighty-two.

(Signed) GEORGE M. BROOKS,
Judge of Court of Insolvency.

22 *Officer's Return.*

MIDDLESEX, *ss:*

MARCH 23, A. D. 1882.

By virtue of the within warrant I have taken possession of all the estate of the within-named insolvent debtor, viz., personal property in Waterfield and in Boston, on the 10, except such as is by law exempted from attachment, and of all his deeds, books of account, and papers which have come to my knowledge; and I have published notice by advertisement on two different days in the newspaper within mentioned, the first publication of which was on the eleventh day of March, A. D. 1882, and all of the said notices were according to the directions set out in said warrant:

Fees.

1. Service of warrant	$2 00
2. Necessary travel (at the rate of 4 cents a mile)	1 60
3. Notice to creditors (at 10 cents each)	7 00
4. Actual expenses in publishing notices as follows:	
Boston Daily Globe	5 00
Postage & envelopes	2 25
5. Actual expenses in custody of property and in other services as follows:	
Custody 14 days, at 50 cts. per day	7 00
Keeper of personal property in Reading 14 days, at 2.00	28 00
Keeper of personal property in Boston 14 days, at $2.00	28 00
Custody of Boston property	7 00
	$86 85

23 (Signed) MOSES BRIGGS,
Deputy Sh'ff, Messenger.

MIDDLESEX, *ss:*

MARCH 23D, 1882.

Then personally appeared the said Moses Briggs and made oath that the above expenses returned by him under Nos. 4 & 5 have

been actually incurred and paid by him and are just and reasonable.

Before me—

(Signed) A. V. LYNDE,
Justice of the Peace.

Assignee's Acceptance of Trust.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex,* } *ss:*

Court of Insolvency.

In the Case of JOHN H. ADDEN, of Reading, in said County, Insolvent Debtor.

To Stillman E. Parker, of said Reading, and John M. B. Reynolds, of Boston, in the county of Suffolk:

You are hereby notified that you have been duly appointed assignees in said case.

March 23d, 1882.

(Signed) J. H. TYLER, *Register.*

24 We hereby signify our acceptance of the trust of assignees of the estate of the above-named insolvent debtor.

March 23d, 1882.

(Signed) JOHN M. B. REYNOLDS.
" STILLMAN E. PARKER.

Assignee's Bond. Filed M'ch 23rd, 1882.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex,* } *ss:*

Know all men by these presents that we, Stillman E. Parker, of Reading, in the county of Middlesex, as principal, and John Adden, of Reading, in the county of Middlesex, as surety, are held and firmly bound to George M. Brooks, Esquire, judge of the court of insolvency in and for said county of Middlesex, in the sum of ten thousand dollars, to be paid to the said judge or his successor in office; to which payment we bind ourselves and our heirs, executors, and administrators firmly by these presents.

Sealed with our seals this twenty-third day of March, in the year eighteen hundred and eighty-two.

The condition of this obligation is such that whereas the said Stillman E. Parker has been duly appointed one of — assignees of the estate of John H. Adden, of Reading, in said county of Middlesex, insolvent debtor:

25 Now, therefore, if the assignee shall well and truly execute and perform all and singular the duties appertaining to his said trust of assignee, and all orders and decrees that shall be legally

made in the premises by the said judge or any of his successors, then this obligation shall be void; otherwise to remain in full force.

(Signed) STILLMAN E. PARKER. [SEAL.]
" JOHN ADDEN. "

Signed, sealed, and delivered in the presence of—
(Signed) A. V. LYNDE.
" JACOB AMES.

I hereby signify my approval of the above bond.
(S'g'd) GEORGE M. BROOKS,
Judge of Court of Insolvency.

Assignee's Bond Filed M'ch 23rd, 1882.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex*, } *ss:*

Know all men by these presents that *I*, John M. B. Reynolds, of Boston, in the county of Suffolk, as principal, and John P. Robinson, of Boston, in the county of Suffolk, as sure*ties*, are held and firmly bound to George M. Brooks, Esquire, judge of the court of insolvency in and for said county of Middlesex, in the sum of ten thousand dol-
26 lars, to be paid to the said judge or his successor in office; to which payment we bind ourselves and our heirs, executors, and administrators firmly by these presents.

Sealed with our seals this twenty-third day of March, in the year eighteen hundred and eighty-two.

The condition of this obligation is such that whereas the said John M. B. Reynolds has been duly appointed assignee of the estate of John H. Adden, of Reading, in said county of Middlesex, insolvent debtor: Now, therefore, if the said assignee shall well and truly execute & perform all and singular the duties appertaining to his said trust of assignee, and all orders and decrees that shall be legally made in the premises by the said judge or any of his successors, then this obligation shall be void; otherwise to remain in full force.

(Signed) JOHN M. B. REYNOLDS. [SEAL.]
" JOHN P. ROBINSON. [SEAL.]

Signed, sealed, and delivered in the presence of—
(Signed) WM. H. GOODWIN.

I hereby signify my approval of the above bond.
(Signed) GEORGE M. BROOKS,
Judge of Court of Insolvency.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex*, } *ss:*

In the office of the register of probate and insolvency for said county of Middlesex, this first day of May, in the year of our Lord

eighteen hundred and eighty-two, I, Sam'l H. Folsom, ass't
27 register of probate and insolvency for said county of Middlesex, and by virtue thereof assistant register of the court of insolvency for said county, having by law the custody of the seal and all the records, books, documents, and papers of or appertaining to the said court of insolvency, hereby certify the paper hereto annexed to — true copies of papers appertaining to said court and on file and of record in the said office.

In witness whereof I have hereunto set my hand and the seal of said court on the day and year last above named.

(Signed) SAM'L H. FOLSOM,
Ass't Register of Probate & Insolvency.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex*, } *ss:*

I, George M. Brooks, judge of the court of insolvency within and for the county of Middlesex, hereby certify that Sam'l H. Folsom, whose signature is affixed to the annexed certificate, is the ass't register and proper certifying officer of said court of insolvency and has by law the custody of the seal and all the records, books, documents, and papers of or appertaining to said court of insolvency, and said certificate is in due form as used in this Commonwealth.

In witness whereof I have hereunto set my hand this first day of May, in the year of our Lord eighteen hundred and eighty-two.

(Signed) GEORGE M. BROOKS,
Judge of Court of Insolvency.

28 *Order.*

Endorsed on the petition: Filed May 10th, 1882.

Let writs of injunction issue as herein prayed for and according to law, upon plaintiff furnishing bond, with good and solvent security, in the sum of five thousand dollars, conditioned as the law directs.

New Orleans, May 15th, 1882.

(Signed) W. T. HOUSTON, *Judge.*

Writ of Injunction. Issued 15th May, 1882.

Division "B," Civil Dist. C't.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.*
No. 5586.

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

State of Louisiana to Mr. John Adden and Thomans Duffy, civil sheriff for the parish of Orleans, and his deputies, Greeting:

29

J. M. B. REYNOLDS
vs.
JOHN ADDEN *et al.*
No. 5586.

You are hereby enjoined, commanded, and restrained in the name of the State of Louisiana and of the civil district court for the parish of Orleans—

1st. To John Adden, Esq.:

From prosecuting or in any way or manner attempting to enforce the judgment in the suit entitled John Adden *vs.* John H. Adden, No. 5586 of the docket of this honorable court, and from proceeding any further in the suit of John Adden *vs.* John H. Adden, No. 5738 of the docket of this honorable court.

2d. To Thomas Duffy, civil sheriff for the parish of Orleans, and his deputies:

From advertising or selling the goods and merchandize in the store No. 58 Custom-House street, New Orleans, or the property, rights, credits, books, papers, notes, assets, safe and contents, or any part or portion thereof of defendant, John H. Adden, seized in said suit.

And you are so to remain enjoined and restrained until the further order of this court.

And what you do in the premises you make return thereof, together with this writ, to our said court, as the law directs.

Witness the Honorables A. L. Tissot, W. T. Houston, F. A. Monroe, N. H. Rightor, Henry L. Lazarus, judges of our said court, this 15th day of May, in the year of our Lord one thousand eight hundred and eighty-two, and in the one hundred and sixth year of the Independence of the United States.

(Signed) E. A. LUMINAIS, *D'y Clerk.*

30 *Sheriff's Return to Writ, &c.*

Received May 15th, 1882, and on the 15th day of May, 1882, I

served a copy of the within writ of injunction personally on John Adden, defendant herein.

Ret. same day.

Sh'ff's fee, $2.00.

(Signed) THOMAS BELL, *D'y Sh'ff.*

Citation. Issued May 18th, 1882.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.*
} No. 5586.

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans, in the City of New Orleans.

To John Adden, New Orleans:

You are hereby summoned to comply with the demand contained in the petition, of which a copy accompanies this citation, or to deliver your answer to the same in the office of the clerk of the
31 civil district court for the parish of Orleans within ten days after the service hereof.

Witness the Honorables A. L. Tissot, W. T. Houston, F. A. Monroe, N. H. Rightor, Henry L. Lazarus, judges of the said court, this 18th day of May, in the year of our Lord 1882.

(Signed) ALEX. T. DONOVAN, *D'y Clerk.*

Court-house, opposite Jackson Square.

Sheriff's Return to Citation.

Received May 18th, 1882, and on the 22d day of May, 1882, I served a copy of the within citation and accompanying petition on John Adden, defendant herein, through G. S. Kellogg and E. N. Whittemore, his attorneys, through E. N. Whittemore, he accepting service of the same.

Ret. same day.

(Signed) A. McCONNELL, JR., *D'y Sh'ff.*

Sh'ff's fee, $1.50.

Service accepted May 22d, 1882.

(Signed) G. S. KELLOGG,
E. N. WHITTEMORE,
Attorneys.

Citation. Issued 18th May, 1882.

32 STATE OF LOUISIANA:

Civil Dist. Court for the Parish of Orleans, in the City of New Orleans.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et al.*

Mr. John H. Adden, through Thomas R. Rozier, Esq., *curator ad hoc*, New Orleans:

You are hereby summoned to comply with the demand contained in the petition of which a copy accompanies this citation or deliver your answer to the same in the office of the clerk of the civil district court for the parish of Orleans within ten days after the service hereof.

Witness the Honorables A. L. Tissot, W. T. Houston, F. A. Monroe, N. H. Rightor, Henry L. Lazarus, judges of the said court, this 15th day of May, in the year of our Lord 1882.

(Signed) ALEX. T. DONOVAN, *D'y Clerk.*

Sheriff's Return to Citation.

Received May 18th, 1882, and on the 19th day of May, 1882, I served a copy of the within citation and accompanying petition on John H. Adden, defendant herein, through Thomas R. Rozier, *curator ad hoc*, herein named, in person.

Ret. same day.

(Signed) JNO. E. SIEKFORT, *D'y Sh'ff.*

33 *Motion to Dissolve Injunction. Filed May 23d*, 1882.

Extract from the Minutes of Division "B" of May 23d, 1882.

Present: Hon. W. T. Houston, judge.

Civil District Court.

JOHN MICHAEL BREWSTER REYNOLDS
vs.
JOHN ADDEN *et al.* } No. 5586.

On motion of C. S. Kellogg and E. N. Whittemore, att'ys for the defendants, John Adden and Thomas Duffy, civil sheriff, it is ordered by the court that plaintiff, John Michael Brewster Reynolds, claiming to be one of two alleged assignees of John H. Adden and Brownlee W. Taylor, who is surety on the injunction bond herein, show cause on Friday, May 26th, 1882, at 11 o'clock a. m., why the

injunction herein issued should not be set aside and dissolved and why, for enjoining the judgment in the case of John Adden *vs.* John H. Adden, No. 5586 of the docket of this honorable court, the said John Michael Brewster Reynolds and the said Brownlee W. Taylor should not be condemned *in solido* to pay the said John Adden ten per cent. interest and twenty per cent. damages on the amount of said judgment herein enjoined, besides one thousand dollars special damages for attorney's fees, with reservation to said John Adden of the right to hereafter sue for damages in consequence of his
34 being enjoined from proceeding in the suit of John Adden *vs.* John H. Adden, No. 5738 of the docket of this honorable court upon the following grounds, to wit:

1st. That if the said John Michael Brewster Reynolds and Stillman E. Parker be assignees of the said John H. Adden, as is alleged in and by the petition of the said plaintiff, John Michael Brewster Reynolds, the said plaintiff, John Michael Brewster Reynolds, cannot sue alone and as sole plaintiff in manner and form attempted in and by the said petition without being voluntarily joined therein by said Stillman E. Parker as a coplaintiff, even if the said petition was not, as it is, invalid on other grounds.

2. That the said petition of the said plaintiff, John Michael Brewster Reynolds, shows no cause of action.

3rd. That the said petition shows that the injunction herein was improvidently granted and issued.

4th. That the injunction bond is irregular and informal, and the surety thereon is not good and solvent and such as the law requires.

Exceptions of John Adden and Thomas Duffy, Civil Sheriff. Filed June 1st, 1882.

Civil Dist. Court.

JOHN MICHAEL BREWSTER REYNOLDS *vs.* JOHN ADDEN *et als.* } No. 5586.

35 And now come the defendants, John Adden and Thos. Duffy, civil sheriff, and, reserving the benefit of the rule or motion heretofore filed to dissolve the injunction, except to the petition of plaintiff, John Michael Brewster Reynolds, claiming to be one of the alleged assignees of John H. Adden upon the following grounds, to wit:

1st. That the said John Michael Brewster Reynolds is not legally an assignee of John H. Adden.

2nd. That if the said John Michael Brewster Reynolds and Stillman E. Parker be assignees of the said John H. Adden, as is alleged in and by the said petition of the said plaintiff, John Michael Brewster Reynolds, the said plaintiff, John Michael Brewster Reynolds, cannot sue alone and as sole plaintiff in manner and form attempted in and by said petition without being voluntarily joined therein by

said Stillman E. Parker as a coplaintiff, even if the said petition were not, as it is, invalid upon other grounds.

3rd. That the said petition of the said John Michael Brewster Reynolds shows no cause of action.

4th. That the property attached in the suit of John Adden *vs.* John H. Adden, No. 5586 of the docket of this honorable court, and in the suit of John Adden *vs.* John H. Adden, No. 5738 of the docket of this honorable court, was prior to such attachment by John Adden in said suit attached by Martin V. B. Smith in the suit of Martin V. B. Smith *vs.* John H. Adden, No. 5487 of the docket of this honorable court, and is now under attachment in said suit No. 5487, and that the same property was subsequently attached by Henry
36 Weber in the suit of Henry Weber *vs.* John H. Adden, No. 5970 of the docket of this honorable court, and is now under attachment in said suit No. 5970, and that said Martin V. B. Smith is and was at the time of his said attachment a citizen and resident of the State of New York, and the said Henry Weber is and was at the time of his said attachment a citizen and resident of the State of Louisiana.

Wherefore appearers pray that these exceptions be maintained; that the said petition of the said plaintiff, John Michael Brewster Reynolds, be dismissed with costs; that the injunction herein issued be set aside and dissolved, and that the said John Michael Brewster Reynolds and Brownlee W. Taylor, who is surety on the injunction bond herein for enjoining the judgment in the case of John Adden *vs.* John H. Adden, No. 5586 of the docket of this honorable court, be condemned *in solido* to pay the said John Adden ten per cent. interest and twenty per cent. damages on the amount of said judgment herein enjoined, besides one thousand dollars special damages for attorneys' fees, with reservation to said John Adden of the right to hereinafter sue for damages in consequence of his being enjoined from proceeding in the suit of John Adden *vs.* John H. Adden, No. 5738 of the docket of this honorable court.

(Signed) C. S. KELLOGG AND
" E. N. WHITTEMORE, *Attorneys.*

Rule to Dissolve Injunction Continued.

37 Extract from the Minutes of Division "B."

FRIDAY, *June 2nd*, 1882.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS
vs.
JOHN ADDEN & *al.* } No. 5586.

The rule and exception herein, not being reached, was ordered to be continued with preference.

Rule Continued.

Extract from the Minutes of Div. "B."

FRIDAY, *June 9th*, 1882.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS
vs.
JOHN ADDEN & *al.* } No. 5586.

Owing to the hour of adjournment having arrived, the rule and exceptions, not being reached, was ordered by the court to be continued with preference.

38 *Rule Continued.*

Extract from the Minutes of Div. "B."

FRIDAY, *June 16th*, 1882.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS
vs.
JOHN ADDEN & *al.* } No. 5586.

The rule to dissolve the injunction herein came on this day for trial—present, C. S. Kellogg & E. N. Whittemore, for pl't'ff in rule; S. P. Blanc & F. N. Butler, for def't in rule—when, after hearing argument of counsel, the court ordered said rule to be continued until Tuesday, the 20th inst., at 11 o'clock a. m.

Testimony of B. W. Taylor, Surety on Injunction Bond, Taken and Offered in Evidence in Open Court on June 16th, 1882. *Filed June 16th*, 1882.

C. D. C.

J. M. B. REYNOLDS
vs.
JOHN ADDEN *et al.* } No. 5586.

39 BROWNLEE W. TAYLOR, duly sworn, says, being shown the injunction bond herein filed, that he signed said bond as surety; that he is worth the amount of said bond, viz., five thousand dollars, over and above all his debts and liabilities. I reside in New Orleans.

Cross-examined:

My property consists of real estate, merchandize, debts and notes

owing. I have a square of ground on Canal street; it was sold for $4,000; I would not take $5,000; it is only assessed at $500. I have a brick store at Mansfield, La., assessed at $3,000. My property other than real estate consists in stocks and merchandize—82 shares Mutual National Bank, worth $120 per share, and 30 shares in N. O. City R. R., worth $115 per share to-day; 25 shares in Gullett Gin Manufacturing Co., which I consider worth $200 per share. I don't consider I owe anything. I pay cash for what I buy. I am a partner in the house of Jno. Henry & Co. The house is perfectly solvent by about $400,000. I am not on any bond that I now know of.

(Signed) B. W. TAYLOR.

Affidavit waived.
(S'g'd) C. S. KELLOGG &
E. N. WHITTEMORE, *Att'ys.*

Notes of Evidence Taken on Exception in Open Court on Friday,
40 *March 16th*, 1883. *Filed M'ch* 28, '83.

Appearances: Whittemore & Kellogg, for pl't'ff in exception; F. Butler, for d'f't in exception.

Mr. Butler, counsel for defendant in exception, offers in evidence the exemplified copy or transcript of the record in the insolvent court of Middlesex county, Massachusetts, in the matter of J. H. Adden, insolvent debtor, showing the appointment of Mr. J. M. B. Reynolds as a co-assignee in this bankruptcy, showing the assignment to him and his qualification as assignee of that court.

Objected to by counsel for plaintiff in exception upon the ground that it does not purport to be a transcript of the entire record, and upon the ground that there is no allegation in the bill that an assignment has been made to the plaintiff in this suit by the judge of the insolvent court of Massachusetts.

Objection overruled.

And counsel for plaintiff in exception except and take this as their bill of exceptions to the ruling of the court.

Mr. Butler, counsel for defendant in exception, offers in evidence the letter which is annexed to the petition dated May 4th, 1882, in which Reynolds calls upon his co-assignee to join him in this litigation; also offers in evidence Mr. Parker's answer to the letter of Mr. Reynolds, assignee, annexed to the petition, these two letters being marked "A & B."

NOTE.—The documents offered in evidence above will be
41 found copied on pages — of this transcript.

Rule to Dissolve Injunction Continued.

Extract from the Minutes of Div. "B."

FRIDAY, *June* 23*d*, 1882.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS
vs.
JOHN ADDEN *et al.* } No. 5586.

The court ordered the rule herein to be continued until Tuesday, the 27 inst., at 11 o'clock a. m., for filing of briefs.

Rule, etc., Submitted.

Extract from the Minutes of Division "B."

TUESDAY, *June* 27*th*, 1882.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS
vs.
JOHN ADDEN & *al.* } No. 5586.

In this case, briefs having been filed this day on the rule to dissolve the injunction herein, said rule was submitted and
42 taken under advisement by the court.

Opinion of Court Filed Feb'y 27*th*, 1883.

Civil D't C't, Division "B."

J. M. B. REYNOLDS, Assignee,
versus
JOHN ADDEN *et als.* } No. 5586.

This case comes upon a rule to set aside a preliminary injunction herein heretofore granted.

The rule alleges that the surety is not good and solvent; that the petition of plaintiff shows no cause of action; that the plaintiff is not joined herein by his co-assignee, who is a necessary party, and it prays that the injunction be dissolved, with the statutory damages.

The action is one of nullity of judgment, accompanied by an injunction against the execution of the judgment *pendente lite*.

The plaintiff alleges in his petition that he is a resident of the city of Boston, Mass.; that about the 10th of March, 1882, John H.

Adden, one of the defendants, a resident of the town of Reading, county of Middlesex, in the State of Massachusetts, was adjudged by the court of that county a voluntary bankrupt, or insolvent under the laws of Massachusetts; that Stillman B. Parker and the
43 plaintiff were chosen assignees of the estate of the said insolvent; that they received possession of its assets and were granted authority to recover such assets wherever situated; that John Adden, one of the defendants, was surety for Stillman B. Parker, as assignee of John H. Adden; that John Adden is the father of John H. Adden; that, as appears by the schedule of assets filed by the said insolvent, there were in his store, No. 58 Custom-House street, in this city, 600 cases of shoes, worth about $18,000; that plaintiff came to New Orleans about the 12th of April, 1882, to take actual possession of the assets of the said insolvent, situated in this city, and discovered that on the 16th of March, 1882, the said John Adden, one of the defendants and a resident of Massachusetts, had brought suit in this court against said insolvent, John H. Adden, in the sum of $20,000, and, on representing that said John H. Adden resided permanently out of the State of Louisiana, obtained an attachment of all the property, rights, &c., of said John H. Adden within the jurisdiction of this court; that on the 29th of March default, which was confirmed against him on the 3rd of April, 1882, with lien and privilege on the property attached, which judgment was signed on the 10th day of April, 1882; that the proceedings had were null and void; that the insolvency proceedings in Massachusetts were a legal bar to any action by John Adden, a resident of the same State, against the person or property of the insolvent; that his co-assignee refused to join in this suit, although requested so to do, and that the judgment sought to be annulled was rendered without due and proper proof.

This rule was argued at great length and with signal
44 ability by the respective counsel, and the court has been furnished with briefs replete with learning on the subject of insolvency, both national and State. The industry of counsel, however, has not enabled them to find a case identical with the one at bar.

It is well settled that the insolvent laws of a State have no extra-territorial effect. It is equally well settled that the effect which they are permitted by county to have in other States will not be extended so far as to prejudice the right of a citizen or resident of any State to attach in satisfaction of his debt any property of the foreign insolvent found within the State. Residents of States other than that of the insolvent debtor are permitted in all States other than that of the insolvent debtor to attach the property of the insolvent in satisfaction of their debt.

It has never been held by any State that it would permit a citizen of the same State as the insolvent who has made a regular and voluntary surrender under the insolvency laws to attach his property. Nearly every State has insolvent laws and is interested in compelling its own citizens to permit those laws to be carried out in their entirety.

Those laws provide for the surrender of the property of the insolvent, wherever situated. If a State will permit her courts to be used by a non-resident to defeat the laws of his own State, which he has sworn to obey, she encourages thereby her own citizens to disobey her laws and to go into other States, there to attach property which had been surrendered by one of her insolvents to be
45 equally divided among his creditors. In the case of Dehon *et als. vs.* Foster *et al.*, 4 Allen, 545, the supreme court of Massachusetts enjoined and prohibited a citizen of that State from proceeding any further in an attachment which he had obtained in Pennsylvania against goods there situated that had been surrendered in insolvency proceedings in Massachusetts by another citizen.

Any judgment the execution of which is against good conscience may be enjoined by persons injuriously affected who were not parties and not guilty of laches, and it may be annulled when obtained by conduct violative of good faith.

One creditor has an interest to attack the validity of the judgment of another creditor who has under his judgment seized all the property of the common debtor within the jurisdiction of the court. 28 Ann., 587. By becoming the surety of one of the assignees John Adden made himself a party to the proceedings in insolvency in Massachusetts, aided those proceedings, and contributed to deprive the Massachusetts creditors of their right to the future earnings of John H. Adden. It is not good faith to ignore those proceedings by which he aided to deprive the Massachusetts creditors of such valuable rights and seek to deprive them also of the assets of the insolvent situate in the State of Louisiana. See G. W. Denton *vs.* J. Enom & *al.*, 5 Ann., 18.

The law of Massachusetts provided that the assignment of the insolvent vests in the assignees the title to the whole estate, wherever situated.

John Adden, being a resident of the State of Massachusetts and having become the surety of one of the assignees in the in-
46 solvency of John H. Adden, is estopped to deny that the whole of the estate of the insolvent was in *custodium legis* at the time the suretyship was signed.

The maintenance of this estoppel is not repugnant to our law or policy, for article 791 of our Revised Statutes provides that after the cession that all the property of the insolvent debtor shall — in his creditors; and article 1790, that the judge shall order that all proceedings against the property of the debtor be stayed.

The right of an assignee in bankruptcy of another State to sue in Louisiana is recognized in the case of Life Ass'n *vs.* Levy, 33 Ann., 1209.

There can be no reason based on principle or good policy why one assignee may not alone bring a suit, if meritorious, when his co-assignee has refused to join. The cases cited by the plaintiffs in rule were those in which an assignee or syndic attempted to ignore his cosyndic and brought suit without requesting any co-operation.

The surety is good. Rule to set aside injunction dismissed.

(Signed) W. T. H.

Rule to Dissolve Injunction Dismissed.

Extract from the Minutes of Division B., Civil District Court.

TUESDAY, *Febr'y 27th*, 1883.

47 Civil Dist. Court.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN & *al.* } No. 5586.

For the reasons assigned in the written opinion of the court, this day delivered and filed, it is ordered that the rule to dissolve and set aside the injunction herein be dismissed with costs.

Motion to Fix Exception. Filed Feb'y 28th, 1883.

Extract from the Minutes of Division "B," Feb'y 28th, 1883.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS
vs.
JNO. ADDEN & *al.* } No. 5586.

On motion of Blanc & Butler, of counsel herein, it is ordered that the exception filed by John Adden in the above-entitled matter be assigned for trial for Friday, March 2d, 1883, at 11 o'clock
48 a. m., and that notice thereof be served on Messrs. C. S. Kellogg & E. N. Whittemore, attorneys for said defendant.

Notice of Trial of Exception. Issued Feb'y 28th, 1883.

STATE OF LOUISIANA:

Civil District Court, Division "B."

J. M. B. REYNOLDS
vs.
JOHN ADDEN & *al.* } No. 5586.

To C. S. Kellogg, Esq., attorney and counselor at law, New Orleans.

SIR: Please to take notice that the exception filed by John Adden in this case has been fixed for trial on Friday, 2d day of March, 1883, at 11 a. m.

New Orleans, Feb'y 28th, 1883.

(Signed) P. J. SULLIVAN,
Deputy Clerk.

Sheriff's Return to Notice.

49 Rec'd Feb'y 28th, 1883, and on the 1st day of March, 1883, I served a copy of the within notice of trial personally on C. S. Kellogg, attorney herein named.

Ret. same day.

(Signed) JNO. E. SIEKFORT, *D'y Clerk.*

Exception Continued.

Extract from the Minutes of Division "B."

FRIDAY, *March 2nd*, 1883.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS
vs.
JOHN ADDEN & *al.* } No. 5586.

Owing to the hour of adjournment having arrived, the exception in this case, not being reached, was ordered by the court to be continued with preference.

Exception of Jno. Adden and Thomas Duffy, Civil Sh'ff. Filed March 9th, 1883.

50 C. D. C.

J. M. B. REYNOLDS
vs.
JOHN ADDEN & *al.* } No. 5586.

And now comes the defendants, John Adden and Thomas Duffy, civil sheriff, and, reserving the benefit of the rule or motion heretofore filed to dissolve the injunction herein, and reserving the benefit of the exceptions heretofore filed herein, further except to the petition of plaintiff, John Michael Brewster Reynolds, claiming to be one of two alleged assignees of John H. Adden, upon the ground—

That if the said John Michael Brewster Reynolds and Stillman E. Parker be assignees of the said —, as is alleged in and by the said petition of the said plaintiff, John Michael Brewster Reynolds, the said Stillman E. Parker ought to be, but is not, a party to this suit, and ought to have been made, but has not been made, — thereto.

Wherefore appearers pray that this exception be maintained, and that the said petition be dismissed, and that the injunction herein be dissolved with costs, and with the damages heretofore prayed for in the said exceptions and rule heretofore filed herein.

(S'g'd) C. S. KELLOGG AND
E. N. WHITTEMORE, *Att'ys.*

Exceptions, &c. Filed March 13th, 1883.

51 J. M. B. REYNOLDS *vs.* JOHN ADDEN & *al.* } No. 5586.

And now come the defendants, John Adden and Thomas Duffy, civil sh'ff of the parish of Orleans, and, reserving the benefit of the exceptions heretofore filed herein, further except to the petition of p laintiff, John Michael Brewster Reynolds, upon the grounds following, to wit:

1st. That the suit of said Reynolds set out in and by said petition was not allotted and assigned as required by article 130 of the constitution of the State of Louisiana of the year 1879, but was illegally docketed in and given the number of the suit of John Adden *vs.* John H. Adden, No. 5586 of the docket of the civil district court for the parish of Orleans, Div. "B," Honorable W. T. Houston, judge, although said suit of said Reynolds is an original suit and seeks to annul and enjoin the suit and attachment in the case of John Adden *vs.* John H. Adden, No. 5738 of the docket of the civil district court for the parish of Orleans, Div. "D," Honorable N. H. Rightor, judge, and to annul and enjoin the judgment and execution in the case of John Adden *vs.* John H. Adden, No. 5586 of the docket of the civil district court for the parish of Orleans, division "B," Honorable W. T. Houston, judge, and that said suit of said Reynolds was not allotted and assigned and docketed as required by rule VII of the civil district court for the parish Orleans, and

52 that said suit of said Reynolds ought to have been but has not been allotted and assigned as required by said article of said constitution, and ought to have been but has not been allotted and assigned and docketed as required by said rule VII, and that the Honorable W. T. Houston, judge of the civil district court for the parish of Orleans, division "B," has no jurisdiction of said *writ* of said Reynolds.

2nd. That said Reynolds cannot legally cumulate in one suit in manner and form attempted in and by his said petition an action to enjoin and annul the judgment and execution in the case of John Adden *vs.* John H. Adden, No. 5586 of the docket of the civil district court for the parish of Orleans, division "B," Honorable W. T. Houston, judge, and an action to enjoin and annul the suit and attachment in the case of John Adden *vs.* John H. Adden, No. 5738, of the docket of the civil district court for the parish of Orleans division "B," Honorable N. H. Rightor, judge.

3rd. That said case of John Adden *vs.* John H. Adden, No. 5738 of the docket of the civil district court for the parish of Orleans, is an attachment suit pending before the Honorable N. H. Rightor, judge of Div. "D" of the civil district court for the parish of Orleans, in which attachment suit judgment has not yet been rendered, and no action to annul or enjoin the proceedings in such attachment

suit can legally be brought in manner and form attempted by said Reynolds in and by his said petition.

4th. That the fifth and last part of said rule VII is not applicable to said suit of said Reynolds, and is unconstitutional, null, and void, and is in violation of said article 130 of said con-
53 stitution.

Wherefore appearers pray that these exceptions be maintained, and that the said petition of the said Reynolds be denied with costs, and that the injunction herein issued be dissolved with the damages heretofore prayed for.

(Signed) C. S. KELLOGG AND
E. N. WHITTEMORE, *Att'ys.*

Exceptions Overruled.

Extract from the Minutes of Division "B."

FRIDAY, *March 16th*, 1883.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS
vs.
JOHN ADDEN & *al.* } No. 5586.

The exceptions filed herein came on this day for trial—present, F. N. Butler, Esq., for pl'tff; E. N. Whittemore, Esq., C. S. Kellogg, Esq., for defendants—when, after hearing pleadings and counsel, for the reasons orally assigned by the court, it is ordered
54 that the exceptions filed herein June 1st, 1882, May 15th, 1882, and March 9th, 1883, be overruled.

Default vs. John Adden.

Extract from the Minutes of Division "B."

TUESDAY, *March 20th*, 1883.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN & *al.* } No. 5586.

On motion of Blanc & Butler, of counsel for plaintiff, and on showing to the court that the defendant, John Adden, has failed to answer, although duly cited—

It is ordered that judgment by default be entered against said defendant.

Motion and Order to Strike Exceptions Herein Filed March 13th, 1883, from the Record.

Extract from the Minutes of Division "B."

FRIDAY, *March 16th*, 1883.

Present: Hon. W. T. Houston, judge.

55 Div. "B," C. D. C.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN & *al.* } No. 5586.

On motion of Blanc & Butler, of counsel for plaintiff, and on suggesting to the court that the exceptions filed by the counsel for John Adden and Thomas Duffy, civil sheriff of this parish, on the 13th day of March, 1883, was filed too late to be considered or tried under rule IX, par. 2, of the rules of this honorable court, as all the exceptions theretofore filed by the defendants had been duly fixed and assigned for trial for Friday, the 2nd day of March, 1883; and, not being reached at the hour of adjournment, were continued to Friday, the 9th day of March, 1883; and, not being reached at the hour of adjournment, were continued to Friday, the 16th day of March, 1883, and said exceptions last referred to were duly reached and called for trial—

It is ordered that the exceptions herein filed by counsel for defendant, John Adden, and for said civil sheriff on the 13th March, 1883, be stricken from the records and files of this court.

Answer and Prayer for Trial by Jury. Filed March 22d, 1883.

56 C. D. C.

J. M. B. REYNOLDS
vs.
JOHN ADDEN & *al.* } No. 5586.

And now come the d'f'ts, John Adden and Thomas Duffy, civil sheriff of the parish of Orleans, and, reserving the benefit of the exceptions heretofore filed herein, said defendants, for answer to the petition of plaintiff, John Michael Brewster Reynolds, deny all and singular the allegations therein contained and not hereafter admitted.

And, further answering, these defendants say that the defendant, John Adden, brought the suits, issued the writs of attachment, and obtained the judgment and issued the writ of execution mentioned in said plaintiff's petition.

And, further answering, these defendants say that under said writs of attachment and execution the civil sheriff for the parish of Orleans seized and took into his possession certain property of the defendant,

John H. Adden, an inventory of which property is in said sheriff's office.

And, further answering, these defendants say that said suits, writs of attachment, judgment, writ of execution, seizures, and all the proceedings in said suits were and are legal and valid.

And, further answering, these defendants say that when said property as aforesaid *were* seized under said writs of attachment and execution the said property was already in said sheriff's possession, the same having been previously seized by said sheriff under a writ of attachment for two thousand dollars, with interest and costs,
57 in the case of Martin V. B. Smith *vs.* John H. Adden, No. 5487 of the docket of the civil district court for the parish of Orleans, in which case said inventory was made by said sheriff, and which attachment of said Smith is still in force.

And, further answering, these defendants say that since said seizures under said writs of said Smith and the defendant, John Adden, the said property described in said inventory has been diminished by a sale of a part thereof, which sale amounts to twenty-one hundred and seventy-six & $\frac{85}{100}$ dollars, and was made under a writ issued by said John H. Adden's landlord in the case of J. H. Stauffer *vs.* John H. Adden, No. 6389 of the docket of said civil district court.

And, further answering, these defendants say that the value of the whole of said property described in said inventory is and was when said property was first seized not more than ten thousand dollars, and that said property is subject to a further claim of said landlord, and that the value of the remainder of said property now in the possession of the said sheriff is not more than between seven and eight thousand dollars, which remainder of said property is subject to the said seizures of said Smith and the defendant, John Adden, and to said further claim of said landlord.

And, further answering, these defendants say that on March 10th, 1882, and on March 11th, 1882, the defendant, John Adden, was not a resident of the State of Massachusetts.

And, further answering, these defendants say that the defendant, John Adden, now is and for more than six years last past has
58 continuously been a citizen of the State of New Hampshire.

And, further answering, these defendants say that the defendant, John Adden, now is and for more than six years last past has continuously been an inhabitant of the State of New Hampshire, where his home now is and has continuously been for more than six years last past.

And, further answering, these defendants say that the defendant, John Adden, now is and for more than six years last past has continuously been a resident of the State of New Hampshire, except when absent from said State attending to business in New Orleans, Massachusetts, and elsewhere, the greater portion of his time being spent in New Orleans attending to the business of said John H. Adden.

And, further answering, these defendants say that the notes forming the basis of said suits and judgment of said John Adden against said John H. Adden were and are Louisiana contracts to be per-

formed in Louisiana and made more than four years since, and that said notes are described in the exhibit hereto annexed and marked "A" and made part thereof, as the whole more fully appears by the said notes themselves, which were filed in said suits.

And, further answering, these defendants say that under the said writs of attachment and execution issued in said suits of John Adden *vs.* John H. Adden the said sheriff seized and took possession of the said property described in the said inventory long before said plaintiff attempted to get possession thereof.

And, further answering, these defendants say that said property was and is situated in Louisiana, and they deny that the alleged messenger or said plaintiff or any creditors other than those
59 who have seized in Louisiana has or have even gotten title or possession or the right to title or possession of said property, and they deny that any assignment of said property by the personal act of said John H. Adden was ever made prior to the seizing and the taking possession of the same by said sheriff under said writs of attachment and execution issued in said suits of John Adden *vs.* John H. Adden.

And, further answering, these defendants say that the alleged Massachusetts insolvent laws under which said plaintiff claims impair the obligation of the aforesaid contracts between said John Adden and said John H. Adden, and deprive said John Adden of his property without due process of law, and are unconstitutional, null, and void, and are in violation of the Constitution of the United States, section one, article ten, and are also in violation — section one of the fourteenth amendment of said Constitution.

And, further answering, these defendants say that said alleged Massachusetts insolvent laws have no extra territorial operation and are without force or effect in Louisiana.

Wherefore these defendants pray that said plaintiff's petition be dismissed with costs, and that the injunction herein issued be dissolved, and that said plaintiff and Brownlee W. Taylor, surety on the injunction bond, be condemned *in solido* to pay the defendant, John Adden, ten per cent. interest and twenty per cent. damages on the amount of the judgment herein enjoined, besides one thousand dollars special damages for attorneys' fees, with reservation to said John Adden of the right to hereafter sue for damages for the
60 enjoining of the said suit of John Adden *vs.* John H. Adden, No. 5738 of the docket of the civil district court for the parish of Orleans, division "D," Honorable N. H. Rightor, judge, which last suit has not yet gone into judgment; and these defendants pray for all costs of suit and for general relief and for trial by jury.

(Signed) C. S. KELLOGG AND
E. N. WHITTEMORE, *Att'ys.*

EXHIBIT "A," Annexed to Answer.

In the suit of John Adden *vs.* John H. Adden, No. 5586, civil district court for the parish of Orleans, one note for sixteen hundred

and sixty-six & $\frac{67}{100}$ dollars, dated New Orleans, May 29th, 1878, made by J. H. Adden, payable on September 17th after date, to the order of John Adden, at No. 5 Magazine street, in New Orleans, with eight per cent. per annum interest from maturity until paid, for value received.

Another note for sixteen hundred and sixty-six and $\frac{67}{100}$ dollars, dated New Orleans, May 29th, 1878, made by J. H. Adden, payable on October 7th after date, to the order of John Adden, at number 5 Magazine street, in New Orleans, with eight per cent. per annum interest from maturity until paid, for value received.

Another note for sixteen hundred and sixty-six & $\frac{66}{100}$ dol-
61 lars, dated New Orleans, May 29th, 1878, made by J. H. Adden, payable on October 30th after date, to the order of John Adden, at No. 5 Magazine street, in New Orleans, with eight per cent. per annum int. from maturity until paid, for value received.

Another note for twenty-eight hundred dollars, dated Boston, April 25th, 1878, made and endorsed by J. H. Adden, payable six months after date, at his office, in New Orleans, La., to his order, for value received.

Another note for twenty-eight hundred dollars, dated Boston, May 8th, 1878, made and endorsed by J. H. Adden, payable six months after date, at his office, in New Orleans, La., to his order, for value received.

Another note for twenty-eight hundred dollars, dated Boston, May 22d, 1878, made and endorsed by J. H. Adden, payable six months after —, at his office, in New Orleans, La., to his order, for value received.

Another note for twenty-eight hundred dollars, dated Boston, June 7th, 1878, made and endorsed by J. H. Adden, payable six months after date, at his office, in New Orleans, La., to his order, for value received.

Another note for twenty-eight hundred and fifty-two & $\frac{64}{100}$ dollars, dated Boston, June 17th, 1878, made and endorsed by J. H. Adden, payable six months after date, at his office, in New Orleans, La., to his order, for value received, making eight notes, amounting in the aggregate to the sum of nineteen thousand and fifty-two & $\frac{64}{100}$ dollars.

62 And in said suit of John Adden *vs.* John H. Adden, No. 5738, civil district court for the parish of Orleans—

One note for twenty-one hundred dollars, dated Boston, July 5th, 1878, made and endorsed by John H. Adden, payable six months after date, at his office, in New Orleans, La., to his order, for value.

Another note for two thousand and eighty-three & $\frac{10}{100}$ dollars, dated Boston, July 22d, 1878, made and endorsed by J. H. Adden, payable six months after date, at his office, in New Orleans, La., to his order, for value received; and

Another note for twenty-one hundred dollars, dated Boston, August 1st, 1878, made and endorsed by J. H. Adden, payable six months after date, at his office, in New Orleans, La., to his order, for value received—

Amounting in the aggregate to the sum of sixty-two hundred and

eighty-three & $\frac{1}{100}$ dollars, as the whole more fully appears by the said notes, the first eight of which notes were filed in said suit of John Adden *vs.* John H. Adden, No. 5586, civil district court for the parish of Orleans, on April 3d, 1882, and the last three of which notes were filed in said suit of John Adden *vs.* John H. Adden, No. 5738, civil district court for the parish of Orleans, on April 4th, 1882.

Order.

Let this case be tried by a jury, as herein prayed for, and according to law.

New Orleans, March 22d, 1883.

(Signed) W. T. HOUSTON, *Judge.*

63 *Motion to Set Aside Default. Filed March 22d, 1883.*

Extract from the Minutes of Division "B."

22D MARCH, 1883.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS
vs.
JOHN ADDEN & *al.* } No. 5586.

On motion of C. S. Kellogg and E. N. Whittemore, attorneys for the defendant, John Adden, and on filing answer of said defendant, it is ordered by the court that the default herein entered on March 20th, 1883, be set aside.

Supplemental and Amended Answer of the Defendants, John Adden and Thos. Duffy, Civil Sh'ff, &c. Filed M'ch 28th, 1883.

C. D. C.

J. M. B. REYNOLDS
vs.
JOHN ADDEN & *al.* } No. 5586.

64 And now come the defendants, John Adden and Thomas Duffy, civil sheriff of the parish of Orleans, and for supplemental and amended answer to the petition of plaintiff, John Michael Brewster Reynolds, say that they adopt herein all the allegations of their original answer.

And, further answering, these defendants say that the alleged Massachusetts insolvent laws, under which said plaintiff claims, deprive the defendant, John Adden, who is a citizen of the State of New Hampshire and of the United States, of the privileges and immunities of citizens in the several States, and are in violation of

section second of article fourth of the Constitution of the United States.

And, further answering, these defendants say that the enforcement in this cause by this honorable court of the alleged Massachusetts insolvent laws, under which said pl't'ff claims, deprives the defendant, John Adden, who is a citizen of the State of New Hampshire and of the United States, of the privileges and immunities of citizens in the several States, and is in violation of section second of article fourth of the Constitution of the United States.

And, further answering, these defendants say that the alleged Massachusetts insolvent laws, under which said plaintiff claims, abridge the privileges and immunities of the defendant, John Adden, who is a citizen of the United States, and are in violation of section one of the fourteenth amendment of the Constitution of the United States.

And, further answering, these defendants say that the enforcement in this cause by this honorable court of the alleged
65 insolvent laws of the State of Massachusetts, under which said plaintiff claims, abridges the privileges and immunities of the defendant, John Adden, who is a citizen of the United States, and denies the defendant, John Adden, who is within jurisdiction of the State of Louisiana and of this honorable court, the equal protection of the laws of the State of Louisiana, and is in violation of section one of the fourteenth amendment of the Constitution of the United States.

Wherefore these defendants pray that this supplemental and amended answer be filed, and they adopt herein the prayer of their original answer, and they pray for general relief.

(Signed) C. S. KELLOGG AND
E. N. WHITTEMORE, *Att'ys.*

Order.

Let this supplemental and amended answer be filed.
New Orleans, March 28th, 1883.
(Signed) W. T. HOUSTON, *Judge.*

Motion and Affidavit for Subpœna, &c. Filed M'ch 28th, '83.

Extract from the Minutes of Division "B."

MARCH 28TH, 1883.

Present: Hon. W. T. Houston, judge.

66 Div. "B," C. D. C.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN. } No. 5586.

On motion of Blanc & Butler, attorneys for plaintiff, and on suggesting to the court that it is material and important to plaintiff to

have the testimony of def't, John Adden, to aid him in maintaining this suit, and as appears from the annexed affidavit plaintiff has reason to fear that said John Adden, when notified to appear herein as a witness, will attempt to leave the jurisdiction of this court to avoid an examination herein—

It is ordered that a subpœna issue to said John Adden, returnable forthwith, in order that said John Adden may be examined as a witness on the part of plaintiff in this cause.

It is further ordered that a writ of attachment for the body of said Adden be also issued and placed in the hands of the deputy sheriff charged with the service of said subpœna, with instructions to said officer—first, to serve said subpœna; and in case of said Adden's refusal to accompany said officer at once to court in obedience of said subpœna, then and in that event to execute said attachment.

Affidavit.

STATE OF LOUISIANA, } ss:
City of New Orleans, }

John M. B. Reynolds, being duly sworn, doth depose and say that he is informed and believes that defendant, John Adden, is now within the jurisdiction of this honorable court; that his evidence is material and important to enable plaintiff in the above-entitled cause to make out his case; that plaintiff is entitled to have the evidence of the said defendant, and for that purpose may summon him to appear and give his testimony herein.

That deponent fears that said Adden will not obey a mere subpœna to appear as a witness herein, and that he will, as soon as summoned, attempt to leave the jurisdiction of the court to avoid giving his testimony herein.

That deponent has knowledge of the fact that when said John Adden was in the jurisdiction of this court in May or June, 1882, a commission was issued from the insolvent court of Middlesex county, Massachusetts, in the insolvent proceedings of John H. Adden there pending, and forwarded to a commissioner in the city of New Orleans for the purpose of taking the testimony of said John Adden; that when said John Adden was notified to appear and give his testimony under said commission he left the jurisdiction of the commissioner to avoid be- examined.

That subsequently, to wit, when he was ascertained to be in Lancaster, New Hampshire, a commission was sent from said insolvent court in said insolvency to secure the testimony of said John Adden in said town of Lancaster, and when the officer having charge of the execution of said commission notified said John Adden to appear before him and be examined thereunder said John Adden utterly disregarded said notice and forthwith left the said town of Lancaster to avoid examination under said commission.

That thereafter returning to said town of Lancaster the said John Adden was forcibly compelled to appear before the officer having charge of said commission and called upon to answer

the questions put to him under said commission, which questions the said John Adden, in utter contempt of the authority referred to, refused to answer, and for such refusal was fined and committed for contempt.

That for weeks said Adden refused to answer or be examined under said commission, nor would he submit to examination thereunder until ordered so to do, as deponent is informed, by the supreme court of the State of New Hampshire.

Further deponent sayeth naught.

(Signed) J. M. B. REYNOLDS.

Subscribed and sworn to before me this 28th of March, 1883.

(Signed) JOSEPH FAHEY, *Not. Pub.*

Writ of Commitment. Issued 28th M'ch, 1883.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN. } No. 5586. C. D. C.

69 STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

The State of Louisiana to the civil sheriff of the parish of Orleans and the keeper of the parish prison of said parish, Greeting:

Whereas John Adden has been attached in the above entitled and numbered suit as a witness on an allegation contained in the affidavit filed this day by J. M. B. Reynolds that said witness, John Adden, was about to leave the jurisdiction of this court before his testimony could be taken and with a view of avoiding testifying herein:

Now, therefore, you, the said civil sheriff, are hereby commanded in the name of the State of Louisiana and of the civil district court for the parish of Orleans to carry the body of the said John Adden to the parish prison of this parish and there deliver him to the keeper thereof, who is hereby authorized and commanded to imprison the said John Adden for the term and space of forty-eight hours or until further orders of this court, and for so doing this shall be your warrant as well as that of the keeper of said parish prison.

And what you do in the premises you make return thereof, together with this writ, as the law directs.

Witness the Honorables A. L. Tissot, W. T. Houston, F. A. Monroe, N. H. Rightor, Henry L. Lazarus, judges of our said
70 court, this 28th day of March, in the year of our Lord one thousand eight hundred & eighty-three, and in the one hundred and seventh year of the Independence of the United States.

(Signed) W. T. HOUSTON, *Judge.*

Sheriff's Return to Commitment.

Received March 28th, 1883, and on the same day conveyed the body of John Adden, defendant herein, to the parish prison of this

parish and there delivered him to the keeper of said prison to be confined for the space of forty-eight hours or until the further order of this hon. court, as will more fully appear from reference of the receipt of the keeper of said parish prison, hereto annexed and made part of this my return.

(Signed) V. J. LAMBERT, *D'y Sh'ff.*

Receipt of Keeper, &c.

Received, parish prison, M'ch 28, '83, from the civil D. court, the body of Mr. John Adden, charged as per commitment.

(Signed) J. G. RUFFEIR, *Cl'k.*

Motion to be Served on C. S. Kellogg & E. N. Whittemore, Attorneys. Filed March 28th, '83.

71 Extract from the Minutes.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS, Assignee, *vs.* JOHN ADDEN & *al.* } No. 5586.

On motion of Blanc & Butler, att'ys for the pl't'ff, and on suggesting to the court that the defendant is held under an attachment to testify as a witness for plaintiff herein—

It is ordered that C. S. Kellogg, Esq., & E. N. Whittemore, Esq., att'ys for defendant, be notified that defendant, John Adden, will be examined as a witness herein on Thursday, March 29th, 1883, at 11 o'clock a. m., before James T. Clarke, clerk of the civil district court.

Motion to Release Def't. Filed M'ch 29th, 1883.

As per Minutes, 29th M'ch, 1883.

Present: Hon. W. T. Houston, judge.

C. D. C., Div. "B."

JOHN MICHAEL BREWSTER REYNOLDS *vs.* JOHN ADDEN & *al.* } No. 5586.

72 On motion of C. S. Kellogg and E. N. Whittemore, att'ys for the defendant, John Adden, and on suggesting to the court that the defendant is in prison under an order of this court rendered herein on March 28th, 1883—

And on further suggesting to the court that there is no warrant

in law for such imprisonment, and that this honorable court has been led into error by the plaintiff, John Michael Brewster Reynolds, and that the affidavit of said plaintiff made herein on March 28th, 1883, is insufficient in law to warrant such imprisonment, and that an attachment of the person of said defendant illegally issued simultaneously with a subpœna addressed to said defendant on March 28th, 1883, before the service of said subpœna and before a return of the same, and that said defendant had not disobeyed said subpœna and has not done so and did not and does not intend to disobey the same, and that the proceedings herein were and are illegal, and that said defendant does not intend to leave this State before June 1st, 1883—

It is ordered by the court that said John Adden be at once released from such imprisonment.

Motion to Give Bail for Defendant. Filed M'ch 29th, 1883.

Extract from the Minutes.

Present: Hon. W. T. Houston, judge.

JOHN MICHAEL BREWSTER REYNOLDS
vs.
JOHN ADDEN & *al.*
} No. 5586, Div. B.

73 On motion of C. S. Kellogg and E. N. Whittemore, atty's for the defendant, John Adden, and on suggesting to the court that said defendant is willing to give, and hereby tenders, bail in such sum as the court may fix to secure the release of said defendant from the imprisonment of his person adduced herein by this honorable court on March 28th, 1883—

It is ordered by the court that said defendant be released from such imprisonment on his giving bail to appear and submit to the orders of the court herein whenever ordered by the court to do so and not to leave the State before June 1st, 1883, in the sum of — dollars.

Sheriff's Return to Motion to Examine D'f't.

Rec'd M'ch 29th, 1883, and on the same day of the same month and year I served a copy of the within rule personally on C. S. Kellogg and E. N. Whittemore, attorneys herein named.

(Signed) B. McKERNAN,
D'y Sheriff.

Notice to Att'ys of Def't. Filed M'ch 30th, 1883.

74 State of Louisiana to Messrs. C. S. Kellogg and E. N. Whittemore.

Please take notice that the testimony of John Adden will be taken before me under commission issued to me by the Hon-

orable W. T. Houston, judge of division "B," civil district court for the parish of Orleans, in the suit of J. M. B. Reynolds, assignee of John H. Adden, *vs.* John Adden *et als.*, No. 5586 of said court, said examination to be heard in the court-room of division "C," civil district court aforesaid, at one and one-half o'clock p. m.

New Orleans, M'ch 29th, 1883.

(Signed) F. A. MONROE,
Judge Civil District Court, Parish of Orleans, Acting Commissioner.

Sheriff's Return to Notice.

Received M'ch 29th, 1883, and on the same day, month, and year I served a copy of the within notice to take testimony on C. S. Kellogg, Esq., att'y-at-law, herein named, in person.

(Signed) ALF. MOSS, *D'y Sh'ff.*

Order to Deliver the Body of John Adden to Civil Sheriff. Issued M'ch 29th, 1883.

75 J. M. B. REYNOLDS, Assignee, *vs.* JOHN ADDEN & *al.* } No. 5586. C. D. C., Div. "B."

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

The State of Louisiana to the criminal sheriff of the parish of Orleans and the keeper of the parish prison of said parish, Greeting:

J. M. B. REYNOLDS, Assignee, *vs.* JOHN ADDEN & *al.* } No. 5586.

You are hereby ordered and commanded, in the name of the State of Louisiana and of the civil district court for the parish of Orleans, to deliver to the civil sheriff of the parish of Orleans the body of John Adden, now confined by you under order of this court, to the end that the said civil sheriff may bring the said John Adden before this court to give his testimony in the case of "J. M. B. Reynolds," assignee, *vs.* John Adden *et al.*, and this shall be your warrant so to do.

And what you do in the premises you make return thereof together with this writ, to our said court as the law directs.

Witness the Honorables A. L. Tissott, W. T. Houston, F.
76 A. Monroe, N. H. Rightor, Henry L. Lazarus, judges of our said court, this 29th day of March, in the year of our Lord one thousand eight hundred and eighty-three, and in the one hundred and seventh year of the Independence of the United States.

(Signed) W. T. HOUSTON, *Judge.*

Sheriff's Return to Notice, &c.

Received March 29th, 1883, and on the same day of the same month and year I executed the within order by delivering the body of John Adden, herein named, before the Honorable W. T. Houston, judge of the civil district court, division "B," civil dist. court.

(Signed) A. McCONNELL, JR., *D'y Sh'ff.*

Continuance.

Extract from the Minutes of Division "B."

TUESDAY, *April 24th*, 1883.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN & *al.* } No. 5586.

77 Owing to the hour of adjournment having arrived, this case, not being reached, was ordered to be continued with preference.

Continued Indefinitely.

Extract from the Minutes of Division "B."

TUESDAY, *May 8th*, 1883.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN & *al.* } No. 5586.

On motion of Blanc and Butler, of counsel for plaintiff, it is ordered that this case be continued indefinitely.

Petition for Removal to the U. S. Circuit Court. Filed May 24th, 1883.

Civil Dist. Court.

JOHN MICHAEL BREWSTER REYNOLDS
vs.
JOHN ADDEN *et als.* } No. 5586.

To the honorable the civil district court for the parish of Or-
78 leans, division "B:"

The petition of John Adden respectfully represents that heretofore, to wit, on May 10th, 1882, John Michael Brewster Rey-

nolds, claiming to be one of two assignees of John H. Adden, brought the above-entitled suit against your petitioner and John H. Adden and Thomas Duffy, civil sheriff of the parish of Orleans.

That in his petition in said suit said Reynolds, claiming under the insolvent laws of Massachusetts and setting up fraud, among other things, on the part of your petitioner, attacks and seeks to annul and enjoin the judgment, attachment, and execution obtained by your petitioner in the case of your petitioner against John H. Adden, No. 5586 of the docket of the civil district court for the parish of Orleans, division "B," Hon. W. T. Houston, judge, said judgment being for $19,052.64, with interest and costs, and also attacks and seeks to annul and enjoin the suit brought and attachment obtained by your petitioner in the case of your petitioner against John H. Adden, No. 5738 of the docket of the civil district court for the parish of Orleans, division "D," Honorable N. H. Rightor, judge, said suit being for $6,283.10, with interest and costs, and among other things said Reynolds prays that your petitioner be enjoined and restrained from prosecuting or in any way or manner attempting to enforce said judgment, and that said civil sheriff and his deputies be enjoined and restrained from advertising or selling the goods or merchandize in the store No. 58 Custom-House street or the property, rights, credits, books, papers,
79 notes, assets, safe and contents or any part or portion thereof of defendant, John H. Adden, under said judgment and execution, and that your petitioner be enjoined and restrained from proceeding any further in the said case No. 5738, and that judgment be rendered in favor of said Reynolds as assignee of John H. Adden, insolvent debtor, declaring the aforesaid proceedings in the said cases of your petitioner against John H. Adden to be absolutely null and void, the attachments therein wrongfully issued and obtained, and the said judgment and execution and the seizure thereunder illegal and without any force or effect, and ordering and commanding said civil sheriff to release and turn over to said Reynolds all the said property, rights, credits, accounts, claims, books, safe and contents, and other properties free from all costs and charges, and decreeing and perpetually enjoining your petitioner and said civil sheriff from further proceeding in any way or manner in the said cases of your petitioner against John H. Adden.

Your petitioner further represents that on March 22nd, 1883, he filed his answer to the petition of said Reynolds in said above-entitled suit.

That in said answer your petitioner sets up, among other things, that the notes forming the basis of the said cases and judgment of your petitioner against John H. Adden were and are Louisiana contracts, some made and all to be performed in Louisiana and made more than four years since, and that when said contracts were made your petitioner was and ever since has been a citizen of the State of New Hampshire; that under the writs of attachment and ex-
80 ecution issued in the said cases of your petitioner against John H. Adden said civil sheriff seized and took possession of cer-

tain property of John Adden long before said Reynolds made any attempt to get possession thereof.

That said property was and is situated in Louisiana and is worth between seven and eight thousand dollars, and that your petitioner denies that the messenger of the insolvent court in Massachusetts or said Reynolds or any creditors other than those who have seized in Louisiana has or have ever gotten title or possession or the right to title or possession of said property, and he denies that any assignment of said property by the personal act of John H. Adden was ever made prior to the seizing and taking posseession of the same by said sheriff under said writs of attachment and execution issued in said cases of your petitioner against John H. Adden.

And in said answer your petitioner also sets up, among other things, that the alleged Massachusetts insolvent laws under which said Reynolds claims impair the obligation of the aforesaid contracts between your petitioner and John H. Adden, and deprive your petitioner of his property without due process of law, and are unconstitutional, null, and void, and are in violation of the Constitution of the United States, article one, section ten, and are also in violation of section one of the fourteenth amendment of said Constitution.

Your petitioner further represents that on March 28th, 1883, he filed a supplemental and amended answer in said above entitled and numbered suit of said Reynolds.

81 That in said amended and supplemental answer your petitioner sets up that the alleged Massachusetts insolvent laws under which said Reynolds claims deprive your petitioner, who is a citizen of the State of New Hampshire and of the United States, of the privileges and immunities of citizens in the several States, and are in violation of section second of article fourth of the Constitution of the United States.

That the enforcement in said suit by this honorable court of the alleged Massachusetts insolvent laws under which said Reynolds claims deprives your petitioner, who is a citizen of the State of New Hampshire and of the United States, of the privileges and immunities of citizens of the several States, and is in violation of section second of article fourth of the Constitution of the United States.

That the alleged Massachusetts insolvent laws under which said Reynolds claims abridge the privileges and immunities of your petitioner, who is a citizen of the United States, and are in violation of section one of the fourteenth amendment of the Constitution of the United States.

That the enforcement in said suit by this honorable court of the alleged Massachusetts insolvent laws under which said Reynolds claims abridges the privileges and immunities of your petitioner, who is a citizen of the United States, and denies your petitioner, who is within the jurisdiction of the State of Louisiana and of this honorable court, the equal protection of the laws of the State of Louisiana, and is in violation of section one of the fourteenth

82 amendment of the Constitution of the United States.

Your petitioner further represents that under the Constitu-

tion of the United — your petitioner had and has the same rights that are given to a citizen of the State of Louisiana under the laws of said State and articles 239 and 240 to 268, inclusive, of the Code of Practice of said State, adopted in 1825 and amended and re-enacted by act of the Legislature of said State, approved March 14th, 1870, and had the right, in his said cases against John H. Adden, who resides out of said State, to seize under attachment and execution the said property, and that the right of your petitioner to sue in his said cases against John H. Adden, and to enforce the obligation of the aforesaid contracts in the courts of the State of Louisiana, and to obtain said attachments, judgment, and execution and to seize said property as aforesaid, is a vested right resting on said contracts and supported and sustained by the Constitution of the United States, and the said suit of said Reynolds impugns the rights, privileges, and immunities secured to your petitioner by the Constitution of the United States, and this cause is one arising under the Constitution of the United —.

Your petitioner further represents that said suit is of a civil nature, and that the matter in dispute in said suit exceeds, exclusive of costs, the sum or value of five hundred dollars.

Your petitioner further represents that your petitioner was at the time of the commencement of said suit, and has continuously since been and still is, a citizen of the State of New Hampshire, and that the said John Michael Brewster Reynolds and John H. Adden then were, and have continuously since been and still are, citizens
83 of the State of Massachusetts, and that the said Thomas Duffy, civil sheriff of the parish of Orleans, then was, and has continuously since been and still is, a citizen of the State of Louisiana.

Your petitioner further represents that in said suit the real contest is between said Reynolds and your petitioner, and that John H. Adden and Thomas Duffy, civil sheriff of the parish of Orleans, are not necessary parties, but are merely nominal or formal defendants therein.

Your petitioner further represents that in said suit there is a controversy between citizens of different States.

Your petitioner further represents that in said suit there is a controversy which is wholly between citizens of different States, and which can be fully determined as between them, to wit, a controversy between your petitioner and said Reynolds.

And your petitioner offers herewith a bond, with good and sufficient surety, for his entering in the circuit court of the United States for the eastern district of Louisiana, on the first day of its next session, a copy of the record in said suit, and for paying all costs that may be awarded by said circuit court if said circuit court shall hold that said suit was wrongfully or improperly removed thereto; and your petitioner says that this is the first term of this honorable court at which said suit could be tried.

And your petitioner prays this honorable court to proceed no further in said suit, except to make the order of removal required by law, and to accept the said surety and bond, and to cause the rec-

ord in said suit to be removed into the said circuit court of
84 the United States for the eastern district of Louisiana; and he will ever pray.

(Signed) JOHN ADDEN.
" C. S. KELLOGG AND
E. N. WHITTEMORE, *Att'ys.*

Affidavit.

John Adden, being duly sworn, doth depose and say that he is the petitioner in the foregoing petition; that he has read the same, and that all the facts and allegations contained in said petition are true, to the best of deponent's knowledge and belief.

(Signed) JOHN ADDEN.

Sworn to and subscribed before me May 24, '83.

(Signed) E. A. LUMINAIS, *D'y Clerk.*

Bond. Filed May 24th, '83.

Civil District Court.

JOHN MICHAEL BREWSTER REYNOLDS
vs.
JOHN ADDEN *et al.*
No. 5586.

85 Know all men by these presents that we, John Adden, as principal, and George H. Shotwell, as surety, are held and firmly bound unto John Michael Brewster Reynolds, suing as one of two assignees of John H. Adden and John H. Adden and Thomas Duffy, civil sheriff of the parish of Orleans, in the penal sum of five hundred dollars; to which payment we bind ourselves and each of us by these presents.

Given under our hands this — day of May, 1883.

The conditions of this obligation are these: The said John Adden has applied to the civil district court for the parish of Orleans, division "B," to remove a certain suit, being the above-entitled suit, pending in said court, wherein John Michael Brewster Reynolds, suing as one of two assignees of John H. Adden, is plaintiff and the said John Adden and John H. Adden and Thomas Duffy, civil sheriff of the parish of Orleans, are defendants, from the said civil district court for the parish of Orleans to the circuit court of the United States for the eastern district of Louisiana:

Now, if said John Adden shall enter in the said circuit court of the United States for the eastern district of Louisiana, on the first day of the next session thereof, a copy of the record of said suit and shall pay all the costs that may accrue or be awarded by said circuit court if it shall hold that said suit was wrongfully or improperly removed thereto, then this obligation shall be void; otherwise in full force.

(Signed) JOHN ADDEN, *Principal.*
" GEORGE H. SHOTWELL, *Surety.*

86 George H. Shotwell, of the city of New Orleans, the surety named in the foregoing bond, being duly sworn, doth depose and say that he is a resident of the city of New Orleans and is a property holder therein; that he is worth the sum of five hundred dollars over and above all his liabilities and debts and exclusive of property by law exempt from taxation.

(Signed) GEO. H. SHOTWELL.

Sworn to and subscribed before me May 24, '83.

(Signed) E. A. LUMINAIS, *D'y Clerk.*

Order.

Let the within bond be accepted, and accordingly let this cause be removed to the United States circuit court for the fifth circuit and eastern district of Louisiana, to be holden at the city of New Orleans at the next session of said court.

New Orleans, May 24, '83.

87 *Petition & Application for Removal Continued.*

Extract from the Minutes of Division B.

THURSDAY, *May 24th*, 1883.

Present: Hon. W. T. Houston, judge.

C. D. C.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN & *al.* } No. 5586.

In this case application was presented by the defendant, John Adden, to transfer this case to the honorable the United States circuit court for the fifth circuit and eastern district of Louisiana; which application was ordered to be notified to the plaintiff with the information that argument will be heard thereon on Monday, the 28th inst., at 11 a. m.

88 *Application for Removal Refused.*

Extract from the Minutes of Division "B."

MONDAY, *May 28th*, 1883.

Present: Hon. W. T. Houston, judge.

Civil Dist. Court.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN & *al.* } No. 5586.

For the reasons orally assigned by the court it is ordered that the application made by the defendant's counsel on the 24th inst. to

transfer this case to the honorable United States circuit court for the fifth circuit and eastern district of Louisiana be denied.

89 *Certificate.*

STATE OF LOUISIANA :

Civil District Court for the Parish of Orleans.

I, James T. Clark, clerk of the civil district court for the parish of Orleans, do hereby certify that the foregoing one hundred and thirty-seven pages do contain a true, correct, and complete transcript of all the proceedings had, documents filed, testimony and evidence adduced upon the trial of the cause wherein J. M. B. Reynolds, assignee, is plaintiff and John Adden *et als.* are defendants, instituted in this court and now in the records thereof under the No. 5586.

In testimony whereof I have hereunto set my hand and affixed the impress of the seal of said court, at the city of New Orleans, on this 1st day of November, in the year of our Lord one thousand
90 eight hundred and eighty-three, and in the one hundred and eighth year of the Independence of the United States of America.

[SEAL.] (Signed JAS. T. CLARK, *Clerk.*

91 *Proceedings in the United States Circuit Court, Eastern District of Louisiana.*

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.*
} No. 10405.

92 *Motion to Docket Cause on Equity Side. Entered and Filed Nov. 6, 1883.*

Circuit Court of the United States for the Eastern District of Louisiana.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.*
} No. 10405.

On motion of C. S. Kellogg and E. N. Whittemore, att'ys for the defendant, John Adden, and on suggesting to the court that a copy of the record of the civil district court for the parish of Orleans in this suit was filed in this court on November 5th, 1883, and that this suit is one of equity jurisdiction—

It is ordered by the court that plaintiff show cause on Saturday, November 10th, 1883, at 11 o'clock a. m., why this suit should not be put on the equity side of this court.

Motion to Remand Cause. Entered and Filed Nov. 9, 1883.

Circuit Court of the United States, Eastern District of Louisiana.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.*
No. 10405.

93 On motion of Blanc & Butler, attorneys for J. M. B. Reynolds, assignee, &c., plaintiff in the above-entitled cause, and on suggesting to the court that said cause has been improperly removed from the civil district court of the parish of Orleans into this honorable court and the same should be remanded to said civil district court for the following reasons, viz:

1st. Because the suit referred to is an auxiliary or incidental action ancillary to a certain suit entitled John Adden *vs.* John H. Adden, No. 5586 of the docket of said civil district court, in which said suit final judgment has been rendered, and was in process of execution when appearer, as assignee of said John H. Adden, enjoined the execution of said judgment for the causes assigned in said petition for injunction.

That the above-entitled suit is by law required to be joined with and made a part of said original action, over which said original action this honorable court never acquired jurisdiction.

2nd. That by the judicial admissions of said John Adden in said suit No. 5586, civil district court, and by the solemn acknowledgment of said John Adden in the insolvency proceedings pending in the insolvency court of Middlesex county, State of Massachusetts, it is made to appear that the said John Adden is a citizen of the State of Massachusetts; and from this record it appears that John Adden and your mover, J. M. B. Reynolds, assignee, are also citizens of the said State of Massachusetts; hence this honorable court is without jurisdiction *rationæ personæ*.

3rd. That the application for the removal of this cause to
94 this honorable court was refused by the honorable the civil district court.

4th. That the application for removal was not timely made.

It is ordered that defendant, John Adden, show cause on Saturday, the 17th day of November, 1883, at 11 o'clock a. m., why the record and proceedings herein should not be remanded to the civil district court of the parish of Orleans at his costs.

Marshal's Return.

Received Nov. 10th, 1883, by the U. S. marshal, and on Nov. 10th, 1883, I served a true — of the within motion to remand cause on E. N. Whittemore, Esq., by handing the same to him and leaving the same in his hands in person in the city of New Orleans.

(Signed) E. S. CURRY,
D'y U. S. Marshal.

Consent to Waive Jury. Filed 17th Nov'r, 1883.

We consent to waive the jury and submit the issues of fact in this cause to the court.

N. O., Nov. 17, 1883.

(Signed) BLANC & BUTLER, *Att'ys.*

(Signed) C. S. KELLOGG AND
E. N. WHITTEMORE, *Att'ys.*

95 *Motion to Remand Continued.*

Extract from the Minute Book, November Term, 1883.

NEW ORLEANS, SATURDAY, *November* 17, 1883.

Court met pursuant to adjournment.

Present: Hon. Edw'd C. Billings, district judge.

J. M. B. REYNOLDS, Assignee,
vs.
JNO. ADDEN *et als.* } No. 10405.

This cause came on to be heard on the motion to remand made by the complainant herein.

Blanc & Butler, for mover; C. S. Kellogg & E. N. Whittemore, for defendant, Jno. Adden.

Whereupon, it appearing that there is an issue of fact involved, the said counsel for the parties then and there filed a stipulation waiving the intervention of a jury, and the motion was thereupon continued till Saturday, 24th inst., at 11 o'clock a. m.

Submission of Motion to Remand Cause to the Civil District Court.

Extract from the Minute Book, November Term, 1883.

96 NEW ORLEANS, SATURDAY, *November 24th*, 1883.

Court met pursuant to adjournment.

Present: Hon. Edward C. Billings, district judge.

J. M. B. REYNOLDS
vs.
JOHN ADDEN *et als.* } No. 10405.

The plaintiff's motion to remand as continued from the 17th instant came on this day to be further heard and was argued by the counsel for the parties respectively and submitted, and the court took time to consider.

Note of Evidence on Behalf of the Def't, John Adden, on Motion to Remand. Filed Nov. 24th, 1883.

United States Circuit Court.

JOHN MICHAEL BREWSTER REYNOLDS
vs.
JOHN ADDEN *et als.*
} No. 10405.

Note of evidence offered in behalf of the defendant, John Adden, on motion to remand.

97 Depositions of Eliab Parker, Albert P. Damon, Waldo E. Perkins, Isaac M. Clark, Edward F. Parker, Wendell Bancroft, Chester B. Jordan, Erastus N. Cobleigh, Jonas Powers, Edward F. Adden, Oscar F. Bothell, Ossian Ray, taken under commission dated April 5th, 1883.

John H. Adden, in answer to first nineteen interrogatories.
A. V. Lynde, " " " "
William W. Davis, " " " "
A. P. Damon, " " " "
Eliab Parker, " " " "
J. E. Parker, " " " "
John Adden, as to home, residence, and citizenship.
Direct examination by plaintiff of March 31st, 1883, p. 127.
" " " April 2nd, 1883, " 51.
Taken under commission dated May 1st, 1883.
Cross-examination of def't, John Adden, of April 12th, 1883, pp. 9 & 10.

98 Cross-examination of def't, John Adden, of April 12th, 1883, pp. 13 & 14.

Cross-examination of def't, John Adden, of April 12th, 1883, pp. 16, 17.
Cross-examination of def't, John Adden, of April 12th, 1883, pp. 19, 20.
Cross-examination of def't, John Adden, of April 12th, 1883, pp. 21, 22.
Cross-examination of def't, John Adden, of April 12th, 1883, pp. 23, 24.
Cross-examination of def't, John Adden, of April 12th, 1883, pp. 25, 26.
Cross-examination of def't, John Adden, of April 12th, 1883, pp. 27, 29.
Redirect examination of plaintiff, of April 12th, 1883, p. 57.
Petition of John Adden to remove, with affidavit annexed.
Taken under commission dated March 29th, 1883.

99 *Depositions of A. P. Damon, W. Perkins, E. Parker, —— Clark, W. Bancroft, and Eliab Parker on Behalf of Defendants, Taken under Commission Dated April 5th, 1883, and Filed Nov. 24th, 1883.*

Civil District Court for the Parish of Orleans.

The State of Louisiana to any judge, justice of the peace, magistrate, or Louisiana commissioner residing in Reading, Massachusetts, Greeting:

No. 5586.

Know ye that we, reposing confidence in your prudence and fidelity, do by these presents give unto you authority diligently to examine all witnesses whatever, as well on the part of plaintiff as of the defendants, in a certain suit now pending in the civil district court for the parish of Orleans, wherein John Michael Brewster Reynolds is plaintiff and John Adden & John H. Adden & Civil Sheriff are defendants.

100 Witnesses: Albert P. Damon, Waldo Perkins, Edward Parker, ——Clark (railroad depot master), Wendell Bancroft, and Eliab Parker.

Therefore we desire you that at certain times and places, by you to be appointed for that purpose, you cause the said witnesses to come before you; that you then and there examine them apart upon their respective corporal oaths, first taken before you upon the Holy Evangelists; that you reduce their examinations to writing and cause the witnesses to sign the same, and when you shall have so taken them that you send the same, with this commission, closed up, under your seal, to us, in our civil district court, in the city of New Orleans, without delay.

Witness the Honorable W. T. Houston, judge of said court, this 5th day of April, in the year of our Lord one thousand [SEAL.] eight hundred and eighty-three, and in the 107th year of the Independence of the United States.

(Signed) GEO. P. CAZELAR,
Deputy Clerk.

Interrogatories. Filed March 28th, 1883.

101 Civil District Court for the Parish of Orleans.

JOHN MICHAEL BREWSTER REYNOLDS
vs.
JOHN ADDEN *et als.*
} No. 5586.

Interrogatories to be propounded to Albert P. Damon, Waldo Perkins, Edward Parker, —— Clark (railroad depot master), and Wendell Bancroft, witnesses residing in Reading, Massachusetts, and to Eliab Parker, witness residing in Boston, Massachusetts, the testimony of which witness is to be taken under the annexed commission, and to be used in evidence in this cause in behalf of the defendant, John Adden.

Interrogatory 1st. What is your name, age, occupation, and place of residence, and how long have you resided there?

Interrogatory 2nd. State whether or not you are acquainted with the defendant, John Adden; if yea, state how long have you known him.

Interrogatory 3rd. State whether or not said John Adden is a married man. If yea, when and where was he married, to his present wife, and where was she living at the time of marriage?

Interrogatory 4. State where the said John Adden and his wife have been living and had their family residence for the last six years.

Interrogatory 5th. State whether or not the said John
102 Adden and his wife have a family residence in Lancaster, New Hampshire. If yea, how long have they had such family residence?

Interrogatory 6th. State whether or not said John Adden and his wife lived in said family residence; if yea, state when they moved into it.

Interrogatory 7th. State whether or not said John Adden and his wife lived in said family residence prior to April, 1878.

Interrogatory 8th. State whether or not said John Adden and his wife lived in said family residence since April, 1878.

Interrogatory 9th. State whether or not said John Adden and his wife had said family residence on March 10th, 1882, and March 11th, 1882.

Interrogatory 10th. State whether or not said John Adden and his wife moved away from Reading, Massachusetts; if yea, state when and where to, and what they moved.

Interrogatory 11th. If you say said John Adden and wife moved away from said Reading to Lancaster, New Hampshire, state whether or not they took with them their household and kitchen effects and furniture, beds, and bedding.

Interrogatory 12th. State whether or not said John Adden
103 had a family residence in Reading, Massachusetts; if yea, state whether or not he sold it, and, if sold, when.

Interrogatory 13th. State whether or not you have visited said John Adden at his residence in Lancaster, New Hampshire; if yea, state when.

Interrogatory 14th. State where have the said John Adden and his wife kept house and had their family residence for the last six years.

Interrogatory 15th. If you know anything of benefit to said John Adden in this case and which you have not already stated please state the same as fully and particularly as if specially interrogated thereto.

(Signed) C. S. KELLOGG AND
E. N. WHITTEMORE, *Att'ys.*

Cross-Interrogatories to A. P. Damon, W. Perkins, Ed. Parker, —— Clark, W. Bancroft, & Eliab Parker. Filed April 4th, 1883.

Division B, Civil District Court, Parish of Orleans.

J. M. B. REYNOLDS
vs.
JOHN ADDEN *et als.* } No. 5586.

104 Counsel for J. M. B. Reynolds, assignee of John H. Adden, plaintiff herein, object to the interrogatories propounded by counsel for defendant, John Adden, to Albert P. Damon, Waldo Perkins, Edward Parker, —— Clark, and Wendell Bancroft, of Reading, Massachusetts, and to Eliab Parker, of Boston, Massachusetts, and to the testimony sought to be elicited from said witnesses, on the following grounds:

1st. That said defendant, John Adden, is estopped from interrogating any witnesses or obtaining any evidence for the purpose of showing his residence at the time this suit was brought as being elsewhere than in the State of Massachusetts by the judicial admission contained in the original petition filed by him in the suit entitled John Adden *vs.* John H. Adden, No. 5586, Div. B, civil dist. court, parish of Orleans, wherein it is alleged that he is a resident of Massachusetts.

2nd. That said defendant, John Adden, is furthermore so estopped by the judicial admission that he was a resident of said State of Massachusetts, as set forth in the petition filed in the suit entitled John Adden *vs.* John H. Adden, No. 5738, civil district court, parish of Orleans, State of Louisiana.

3rd. That he is furthermore so estopped by his judicial admission when he signed the bond of Stillman E. Parker, as an assignee of the insolvent estate of John H. Adden, No. 1321, insolvent court of Middlesex county, Massachusetts, that he was a resident of said State of Massachusetts.

Reserving said objections and all other legal objections to
105 the aforesaid interrogatories and to the answers of the witnesses which may be made thereto, counsel for J. M. B. Reynolds, assignee, propound the following cross-interrogatories:

1st cross-interrogatory. If in answer to any of the interrogatories you have stated where the said John Adden and his wife have been living and have had their family residence during the last six years, you will also state what personal knowledge you have of each and every statement you have made. Did you ever visit them at the place you call their family residence? If yea, where? In what part of the town or place is John Adden's family residence located? Describe it. Who were living there at this time? Name each person living there. When were you last there? How do you know that such house was his family residence? Do you know where John Adden, defendant, voted during that period? Is it not to your knowledge that during that period and prior to March 10th,

1882, that whenever John Adden voted he voted at Reading, Massachusetts? Did he ever vote during the period mentioned anywhere else than at Reading, Massachusetts, so far as your knowledge extends? If he did vote elsewhere, when and where did he vote? Was he not assessed and did he pay a poll-tax at Reading, Massachusetts, during said period? Was he not in the habit of spending his summers or the greater part of them, during that period and prior to the year 1882, in Reading, Massachusetts?

2nd cross-interrogatory. If in answer to any of the inter-
106 rogatories you say that defendant, John Adden, resided in New Hampshire on the 10th or 11th of March, 1882, state if said Adden did not, at or about that time, become the surety for Stillman E. Parder, as an assignee of John H. Adden in the insolvent court of Middlesex county, Massachusetts? Have you ever seen the bond given by said Stillman E. Parker to enable him to qualify as such assignee? If yea, who signed said bond as surety? Did you ever see said bond?

General interrogatory. State any other fact or circumstance within your knowledge showing or tending to show that John Adden's residence was in Reading, Massachusetts, in the early part of March, 1882, and for a number of years previous to that date.

(Signed) BLANC & BUTLER, *Att'ys.*

Depositions of witnesses produced, sworn, and examined on the days hereinafter stated at the residence of Solon Bancroft, in Reading, Massachusetts, and at the office of said Solon Bancroft, No. 47 Court street, Boston, Massachusetts, the depositions of the witnesses Eliab Parker, Albert P. Damon, and Waldo E. Perkins being taken at said office and the others at said residence. The same were taken under and by virtue of the annexed commission issued out of the civil district court for the parish of Orleans, in the State of Louisiana, to take depositions to be used in a
107 certain cause pending and at issue between John Michael Brewster Reynolds, plaintiff, and John Adden, John H. Adden, & Civil Sheriff, defendants.

ELIAB PARKER, who, being first duly sworn on the Holy Evangelists, on this the twenty-third day of April, in the year of our Lord 1883, doth depose and say as follows:

First. To the 1st interrogatory he saith: My name is Eliab Parker; age, 29 years; occupation, book-keeper; reside in Boston and have resided in Boston most of the time for eight years.

Second. To the 2nd interrogatory he saith: I am acquainted with John Adden and have known him for ten years.

Third. To the 3d interrogatory he saith: John Adden is a married man. I don't know when he was married; it was at least ten years ago. I don't know where he was married; do not know of my own knowledge where she was living at the time of the marriage; have heard that it was in Lancaster, New Hampshire.

Fourth. To the 4th interrogatory he saith: Lancaster, New Hampshire.

Fifth. To the 5th interrogatory he saith: They have such residence. I should say they have had it for eight years at least.

Sixth. To the 6th interrogatory he saith: They did live in it; think they moved into it in 1874 or 1875.

108 Seventh. To the 7th interrogatory he saith: They did.

Eighth. To the 8th interrogatory he saith: They have.

Ninth. To the 9th interrogatory he saith: I should say they did.

Tenth. To the 10th interrogatory he saith: They did move away about 1874 or '5; I can't say exactly. They went to Lancaster, New Hampshire. They moved their furniture and household goods.

Eleventh. To the eleventh interrogatory he saith: They took substantially everything; think they may have sold some of their goods, but took nearly everything.

Twelfth. To the 12th interrogatory he saith: He had a family residence and he sold it about the year 1877 or 1878; can't tell exactly.

Thirteenth. To the 13th interrogatory he saith: I have; think it was in the year 1877; am not quite positive.

Fourteenth. To the 14th interrogatory he saith: At Lancaster, New Hampshire.

Fifteenth. To the 15th interrogatory he saith: I don't know what the case is, and cannot make answer to this question.

Sixteenth. To the 1st cross-interrogatory he saith: I have been intimately acquainted with Mr. John Adden for the last ten years. In the course of my business I have directed a great many letters to him at Lancaster, New Hampshire. I visited Mr.

109 and Mrs. Adden at their residence in Lancaster, I think, in the year 1877; spent a week with them. Their residence was located in the southeasterly part of the thickly populated portion of the town, near the river—a two-story cottage house, with ell and stable. Mr. and Mrs. Adden and a domestic, whose name I do not know, were living there. I was never there but this once. I know, from the fact of his living in it and from what was told me when I visited them, that it was their family residence. I do not know anything about his voting; don't know that he ever voted; cannot say whether he was assessed and paid a poll-tax in Reading during said period. He did not spend his summers in Reading.

Seventeenth. To the 2nd cross-interrogatory he saith: I have never seen the bond and know nothing of it.

Eighteenth. To the final general interrogatory he saith that since his removal to Lancaster he knows of nothing to indicate his residence to be in Reading. He had no home in Reading; thinks he may have seen — his Reading tax bill an item for poll-tax within six years, but not in two years.

(Signed) ELIAB PARKER.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk County,* } *ss:*

Sworn to and subscribed before me this the twenty-third day of April, in the year 1883.

(Signed) SOLON BANCROFT,
Justice of the Peace.

110 ISAAC M. CLARK, who, being first duly sworn on the Holy Evangelist, on this twenty-third day of April, in the year of our Lord 1883, doth depose and say as follows:

First. To the 1st interrogatory he saith: My name is Isaac M. Clark; age, 64 years; station agent of Boston and Maine railroad in Reading; have lived in Reading, Massachusetts, 17 years.

Second. To the 2nd interrogatory he saith: I have known him for 15 years.

Third. To the third interrogatory he saith: He is a married man. I don't know when and where he was married. She was living in New Hampshire at the time.

Fourth. To the 4th interrogatory he saith: In New Hampshire.

Fifth. To the 5th interrogatory he saith: They have a residence in northern New Hampshire; think it is in Lancaster, and have had for seven or eight years, I think.

Sixth. To the 6th interrogatory he saith: I only know their goods left Reading about eight years ago, I think, for Lancaster, New Hampshire.

Seventh. To the 7th interrogatory he saith: Think it was 1874 or 1875 when they left Reading.

Eighth. To the 8th interrogatory he saith: I only know they have not been back to Reading to live.

Ninth. To the 9th interrogatory he saith: I only know they had not returned to Reading.

111 Tenth. To the 10th interrogatory he saith: They moved away from Reading, I think, eight years ago to Lancaster, New Hampshire. They moved furniture and household goods.

Eleventh. To the 11th interrogatory he saith: It was the ordinary furniture which a family would move. Some of it was done up in boxes and barrels.

Twelfth. To the 12th interrogatory he saith: He formerly had a residence here and sold it, but cannot give the date.

Thirteenth. To the 13th interrogatory he saith: I never have visited them.

Fourteenth. To the 14th interrogatory he saith: In Lancaster, New Hampshire, I presume. They went there, and I have never heard of their going from there.

Fifteenth. To the fifteenth interrogatory he saith: I do not know what the case is and cannot say anything about it.

Sixteenth. To the 1st cross-interrogatory he saith: I have never visited them. From my position in connection with the railroad I knew about the shipment of their goods. They have visited here since two or three times, to my knowledge, and I have talked with them about where they lived. I don't know whether he voted anywhere or not. I don't know about his being assessed or paying a poll-tax. He has never had his goods brought back to Reading or made his home here. He has sometimes visited his son or daughter here. His daughter died a few years ago, and he has been in Reading less since that happened.

112 Seventeenth. To the 2nd cross-interrogatory he saith: I never saw the bond and know nothing about it.

Eighteenth. To the last interrogatory he saith: I know of nothing tending to show where his residence then was, except as I have already stated.

(Signed) ISAAC M. CLARK.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex County*, } ss:

Sworn to and subscribed before me this twenty-third day of April, in the year 1883.

(Signed) SOLON BANCROFT,
Justice of the Peace.

EDWARD F. PARKER, called in the commisson Edward Parker, who, being first duly sworn on the Holy Evangelists, on this the twenty-fourth day of April, in the year of our Lord 1883, doth depose and say:

First. To the 1st interrogatory he saith: My name is Edward F. Parker; age, 56 years; have no regular occupation except trading somewhat. My time is partially occupied by duties as a member of the school committee of the town and as town treasurer. My residence is Reading, and I have always lived in Reading, Massachusetts.

Second. To the 2nd interrogatory he saith: I am acquainted
113 with him and have known him as long as I can remember—from my boyhood.

Third. To the 3d interrogatory he saith: He has a wife or had when I last knew, but I don't know when or where he was married or where his present wife was living when he married her.

Fourth. To the 4th interrogatory he saith: I don't know.

Fifth. To the 5th interrogatory he saith: I don't know except by report.

Sixth. To the 6th interrogatory he saith: I only know they moved from Reading in October, 1874. I packed his goods and loaded them on a car to go, as I was told, to Lancaster, New Hampshire.

Seventh. To the 7th interrogatory he saith: I only know that they moved from Reading at the time I have stated.

Eighth. To the 8th interrogatory he saith: I don't know.

Ninth. To the 9th interrogatory he saith: I don't know.

Tenth. To the 10th interrogatory he saith: They did move away from Reading in October, 1874, to go, as I was told, to Lancaster, New Hampshire. They moved their household furniture.

Eleventh. To the 11th interrogatory he saith: They did take their household and kitchen effects and furniture, beds, and bed-
114 ding. I packed it for them, and loaded it on the car. They took everything substantially, and the house was taken and occupied by another family.

Twelfth. To the 12th interrogatory he saith: He formerly occupied a house in Reading. I do not know about the ownership.

Thirteenth. To the 13th interrogatory he saith: I never have visited him.

Fourteenth. To the 14th interrogatory he saith: I don't know.

Fifteenth. To the 15th interrogatory he saith: I don't know what the case is.

Sixteenth. To the 1st cross-interrogatory he saith: I do not know where he has had his family residence during the last six years. I do not know anything about his voting or being assessed and paying a poll-tax. I should say he was not in the habit of spending his summers or the greater part of them in Reading, Massachusetts. He had no home here, but sometimes staid for awhile with his son or daughter.

Seventeenth. To the 2nd cross-interrogatory he saith: I never saw the bond and know nothing about it.

Eighteenth. To the last interrogatory he saith: I know of no such facts.

(Signed) EDWARD F. PARKER.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex County*, } *ss:*

Sworn to and subscribed before me this twenty-fourth day of April, 1883.

(Signed) SOLON BANCROFT,
Justice of the Peace.

115 WENDELL BANCROFT, who, being first duly sworn on the Holy Evangelists, on this the twenty-fourth day of April, in the year of our Lord 1883, doth depose and say:

First. To the 1st interrogatory he saith: My name is Wendell Bancroft; age, 52 years; occupation, coal and lumber dealer; reside in Reading, Massachusetts, and have resided there all my life.

Second. To the 2nd interrogatory he saith: I am acquainted with him and have known him for forty years at least.

Third. To the 3d interrogatory he saith: I believe he is a married man, but do not know when or where he married his present wife or where she was then living.

Fourth. To the 4th interrogatory he saith: I do not know.

Fifth. To the 5th interrogatory he saith: I do not know.

Sixth. To the 6th interrogatory he saith: I do not know.

Seventh. To the 7th interrogatory he saith: I do not know.

Eighth. To the 8th interrogatory he saith: I do not know.

Ninth. To the 9th interrogatory he saith: I do not know.

Tenth. To the 10th interrogatory he saith: They moved
116 away from Reading about eight years ago, I should think. I do not know where they went. They took all their goods.

Eleventh. To the 11th interrogatory he saith: I do not know of my own knowledge that they went to Lancaster, New Hampshire, but I know that they took away from Reading all their goods, and the house which they had occupied has ever since been occupied by other families.

Twelfth. To the 12th interrogatory he saith: He occupied a family residence in Reading. I cannot say when it was sold.

Thirteenth. To the 13th interrogatory he saith: I have never visited him.

Fourteenth. To the 14th interrogatory he saith: I do not know.

Fifteenth. To the 15th interrogatory he saith: I do not know what the case is and can say nothing to benefit him.

Sixteenth. To the 1st cross-interrogatory he saith: I have never visited him. I do not know where he voted or where he was assessed and paid a poll-tax. He had no home in Reading, but was occasionally here with his son; do not think he spent the greater part of his time here.

Seventeenth. To the 2nd cross-interrogatory he saith: I never saw the bond and know nothing about it.

Eighteenth. To the last cross-interrogatory he saith: I know of no such facts.

(Signed) WENDELL BANCROFT.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex County*, } *ss:*

117 Sworn to and subscribed before me this the twenty-fourth day of April, in the year 1883.

(Signed) SOLON BANCROFT,
Justice of the Peace.

ALBERT P. DAMON, who, being first duly sworn on the Holy Evangelists, on this the twenty-fourth day of April, in the year of our Lord 1883, doth depose and say as follows:

First. To the 1st interrogatory he saith: Albert P. Damon; age, 46 years; occupation, manufacturer of men's furnishing goods; residence, Reading, Massachusetts; have resided there thirty years.

Second. To the 2nd interrogatory he saith: I am acquainted with him; have known him for twenty-five years.

Third. To the 3rd interrogatory he saith: He is a married man. He was married about 1870, at Lancaster, New Hampshire, and his present wife was then living at Lancaster.

Fourth. To the 4th interrogatory he saith: At Lancaster, New Hampshire.

Fifth. To the 5th interrogatory he saith: They have a family residence at Lancaster, New Hampshire, and have had it for eight or nine years.

Sixth. To the 6th interrogatory he saith: They did live in it, and they moved into it some time in the latter part of 1874.

Seventh. To the seventh interrogatory he saith: They did.

118 Eighth. To the eighth interrogatory he saith: They have.

Ninth. To the 9th interrogatory he saith: They did.

Tenth. To the 10th interrogatory he saith: They did move away from Reading, Massachusetts, in the latter part of 1874. They went to Lancaster, New Hampshire. They moved their furniture, bedding, household goods—everything.

Eleventh. To the 11th interrogatory he saith: They did take their household and kitchen effects and furniture, beds, and bedding.

Twelfth. To the 12th interrogatory he saith: He did have a family residence in Reading, and sold it in 1878, I think—a few years after he moved away.

Thirteenth. To the 13th interrogatory he saith: I have visited him at his residence in Lancaster, New Hampshire, in 1878 or '79. I think it was in 1878.

Fourteenth. To the 14th interrogatory he saith: In Lancaster, New Hampshire.

Fifteenth. To the 15th interrogatory he saith: I know that he had a residence formerly in Reading; that he gave it up and moved away to Lancaster, New Hampshire. My wife, who is now deceased, visited him at Lancaster, N. H., within three or four months after he moved away from Reading. I knew that he intended building at Lancaster, for I heard conversation between him and a carpenter in regard to plans for a house and in regard to the purchase
119 of lumber for a house. He afterwards told me that he had bought the lumber for the buildings; also he afterwards told me that he had given up the idea of building and should purchase a house instead. I afterward visited him there, and have written him and telegraphed to him there, and have received letters and answers in reply. He afterwards told me he had sold his residence in Reading, and I saw a deed of it.

Sixteenth. To the 1st cross-interrogatory he saith: I have personal knowledge of all I have stated except what I have stated to have been told me by others. When they moved to Lancaster I assisted in the moving. My wife afterwards visited there. I also visited them there after my wife died, in 1878, I think. This was the only time I have been there. The residence is in the east part of the town, near the river; backs right on the river. It is a two-story cottage house with stable attached. Mr. John Adden and his wife and a domestic whose name I do not know were the only persons living there. I know it was his family residence from his living there, and he told me had bought it.

I do not know where John Adden voted during the period named. I know that he did not vote in Reading during the period named. I do not know whether or not he voted anywhere else, nor where, if he did vote. I do not know whether he was assessed or paid a poll-tax in Reading. He was not in the habit of spending his summers or the greater part of them in Reading, Massachusetts. In fact he has been there but very little during the period named.

Seventeenth. To the 2nd cross-interrogatory he saith: I do not know whether he became surety upon the bond named. I
120 never saw the bond.

Eighteenth. To the last cross-interrogatory he saith: I know of no such facts.

(Signed) ALBERT P. DAMON.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk County*, } ss:

Sworn to and subscribed before me this twenty-fourth day of April, in the year 1883.

(Signed) SOLON BANCROFT,
Justice of the Peace.

WALDO E. PERKINS, called in the commission Waldo Perkins, who, being first duly sworn on the Holy Evangelists, on this the twenty-sixth day of April, in the year of our Lord 1883, doth depose and say as follows:

First. To the 1st interrogatory he saith: Waldo E. Perkins; age, 40 years; occupation, trader; reside in Reading, Massachusetts, and have resided there nearly all my life.

Second. To the 2nd interrogatory he saith: I am acquainted with him, and have known him all my life.

Third. To the 3rd interrogatory he saith: Think he is a married man; do not know when or where he was married or where his wife was living at the time of marriage.

Fourth. To the 4th interrogatory he saith: In Lancaster, New Hampshire.

121 Fifth. To the 5th interrogatory he saith: Think they went in 1874 or 1875; do not know about their method of living there.

Sixth. To the 6th interrogatory — saith: I do not know.

Seventh. To the 7th interrogatory he saith: I do not know.

Eighth. To the 8th interrogatory he saith: I do not know.

Ninth. To the 9th interrogatory he saith: I do not know.

Tenth. To the 10th interrogatory he saith: They moved away from Reading in 1874 or 1875. They went to Lancaster. I do not know what they moved.

Eleventh. To the 11th interrogatory he saith: I do not know.

Twelfth. To the 12th interrogatory he saith: He formerly had a residence in Reading and sold it, I think, about the time he moved—in 1874 or '5. He has never occupied it since.

Thirteenth. To the 13th interrogatory he saith: I have not visited him.

Fourteenth. To the 14th interrogatory he saith: I do not know whether they kept house or boarded. They have been at Lancaster.

Fifteenth. To the 15th interrogatory he saith: I know nothing further.

122 Sixteenth. To the 1st cross-interrogatory he saith: I have never visited them. I know nothing about his voting or being assessed or paying a poll-tax; think he did not spend his summers or the greater part of them during the period named at Reading, Massachusetts.

Seventeenth. To the 2nd cross-interrogatory he saith: Never saw the bond and know nothing about it.

Eighteenth. To the last cross-interrogatory he saith: I do not know of any such facts.

(Signed) WALDO E. PERKINS.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk County,* } *ss.:*

Sworn to and subscribed before me this the twenty-sixth day of April, 1883.

(Signed) SOLON BANCROFT,
Justice of the Peace.

COMMONWEALTH OF MASSACHUSETTS:

SECRETARY'S DEPARTMENT, BOSTON, *April* 24, 1883.

I hereby certify that on the 11th day of May, 1880, Solon Bancroft was appointed and commissioned and on the 15th day of May, 1880, was duly qualified as a justice of the peace for the said Commonwealth for the term of seven years from the date of said commission, and that to his acts and attestations as such full
123 faith and credit are and ought to be given in and out of court.

[SEAL.] In testimony of which I have hereunto affixed the seal of the Commonwealth.

(Signed) HENRY B. PEIRCE,
Secretary of the Commonwealth.

I, Solon Bancroft, a justice of the peace for the Commonwealth of Massachusetts, residing at Reading, Massachusetts, do certify that I caused Eliab Parker, Isaac M. Clark, Edward F. Parker, Wendell Bancroft, Albert P. Damon, and Waldo E. Perkins, witnesses hereinbefore named and examined, to appear before me at the times and places above named, and, after publicly and solemnly swearing each separately to tell the truth, the whole truth, and nothing but the truth in answer to the annexed direct and cross interrogatories, I then and there proceeded to examine each separately by propounding to him the said direct and cross interrogatories and reducing in my presence and that of the witness, his answers thereto in writing with my own hand, and I then caused each witness to sign his deposition, in my presence, as already stated.

In testimony whereof I have hereunto set my hand on this the twenty-sixth day of April, in the year 1883.

(Signed) SOLON BANCROFT,
Justice of the Peace.

Fees of 6 witnesses for attendance	$3 00
Travel of 6 witnesses	4 50
Services of magistrate	30 00
Certificate of sec'y of state	25
	37 75

124 Signature and capacity of officer who has executed the within commission are admitted, and all objections founded on any irregularity of form in the execution of said commission are waived.

(Signed) BLANC & BUTLER, *Att'ys.*

N. O., May 2, '83.

Depositions of Chester Jordan, O. Ray, J. Powers, O. Bonthell, —— Cobley, and E. F. Adden on Behalf of Defendants, Taken Under Commission Dated April 5th, 1883, and Filed Nov. 24th, 1883.

Civil District Court for the Parish of Orleans.

The State of Louisiana to any judge, justice of the peace, magistrate, or Louisiana commissioner residing in Lancaster, New Hampshire, Greeting:

No. 5586.

Signature & capacity of commissioner admitted, and all objections as to form of taking testimony or any irregularity in the form of the execution of said commission waived.

(Signed) BLANC & BUTLER, *Att'ys.*

Know ye that we, reposing confidence in your prudence and fidelity, do by these presents give unto you authority dili-
125 gently to examine all witnesses whatever, as well on the part of the plaintiff as of the defendants, in a certain suit now pending in the civil district court for the parish of Orleans, wherein John Michael Brewster Reynolds is plaintiff and John Adden and Civil Sheriff and John H. Adden are defendants.

Witnesses: Chester Jordan, Ossiam Ray, Jonas Powers, —— Cobley (of the firm of Cobley & Moore), Oscar Bonthell, and Edward F. Adden.

Therefore we desire you that at certain times and places, by you to be appointed for that purpose, you cause the said witnesses to come before you; that you then and there examine them apart upon their respective corporal oaths first taken before you upon the Holy Evangelists; that you reduce their examinations to writing and cause the witnesses to sign the same, and when you shall so have taken them that you send the same, with this commission, closed up under your seal, to us in our civil district court, in the city of New Orleans, without delay.

Witness the Honorable W. T. Houston, judge of said court, this 5th day of April, in the year of our Lord one thousand eight
126 hundred and eighty-three, and in the 107th year of the Independence of the United States.

[SEAL.] (Signed) GEO. P. CAZELAR,
Deputy Clerk.

Interrogatories. Filed March 28th, 1883.

Civil District Court for the Parish of Orleans.

JOHN MICHAEL BREWSTER REYNOLDS
vs.
JOHN ADDEN *et als.*
No. 5586.

Interrogatories to be propounded to Chester Jordan, Ossiam Ray, Jonas Powers, Oscar Bonthell, and —— Cobley (of the firm of Cobley & Moore), witnesses residing in Lancaster, New Hampshire, and to Edward F. Adden, witness residing in Northumberland, New Hampshire, the testimony of which witnesses is to be taken under the annexed commission and to be used in evidence in this cause in behalf of the defendant, John Adden.

Interrogatory 1st. What is your name, age, occupation, and place of residence, and how long have you resided there, and what official position, if any, have you held within the last six years?

Interrogatory 2nd. State whether or not you are acquainted with the defendant, John Adden. If yea, state how long you have
127 known him.

Interrogatory 3rd. State whether or not said John Adden is a married man; if yea, when and where was he married to his present wife, and where was she living at the time of marriage?

Interrogatory 4th. State where the said John Adden and his wife have been living and had their family residence for the last six years.

Interrogatory 5th. State whether or not said John Adden and his wife have a family residence in Lancaster, New Hampshire; if yea, how long have they had such family residence?

Interrogatory 6th. State whether or not said John Adden and his wife lived in said family residence; if yea, state when they moved into it.

Interrogatory 7th. State whether or not said John Adden and his wife lived in said family residence prior to April, 1878.

Interrogatory 8th. State whether or not said John Adden and his wife lived in said family residence since April, 1878.

Interrogatory 9th. State whether or not said family residence was the family residence of said John Adden and his wife on March 10th, 1882, and March 11th, 1882.

Interrogatory 10th. State whether or not said John Adden and his wife moved away from Reading, Massachusetts; if yea,
128 state when and where to and what they moved.

Interrogatory 11th. Where are the household effects and furniture, if any, of said John Adden and his wife?

Interrogatory 12th. State whether or not said John Adden or his wife owns said family residence; if yea, how long has such family residence been so owned?

Interrogatory 13th. Where have the said John Adden and his

wife kept house and had their family establishment for the last six years?

Interrogatory 14th. If you know anything of benefit to said John Adden in this case and which you have not already stated, please state the same as fully and particularly as if specially interrogated thereto.

(Signed) C. S. KELLOGG AND
E. N. WHITTEMORE, *Att'ys.*

Cross-Interrogatories. Filed April 4th, 1883.

Division B, Civil District Court, Parish of Orleans.

J. M. B. REYNOLDS
vs.
JOHN ADDEN *et als.* } No. 5586.

129 Counsel for J. M. B. Reynolds, assignee of John H. Adden, plaintiff herein, object to the interrogatories propounded by counsel for defendant, John Adden, to Chester Jordan, Ossiam Ray, Jonas Powers, Oscar Bonthell, and —— Cobley, of the firm of Cobley and Moore, witnesses residing in Lancaster, New Hampshire, and to Edward F. Adden, witness residing in Northumberland, New Hampshire, and to the testimony sought to be elicited from said witnesses on the following grounds:

1st. That said defendant, John Alden, is estopped from interrogating any witnesses or obtaining any evidence for the purpose of showing his residence at the time this suit was brought as being elsewhere than in the State of Massachusetts by the judicial admission contained in the petition filed by him in the suit entitled John Adden *vs.* John H. Adden, No. 5586, Div. B, civil district court, parish of New Orleans, wherein it is alleged that he is a resident of Massachusetts.

2nd. That said defendant, John Adden, is furthermore so estopped by the judicial admission that he was a resident of said State of Massachusetts, as set forth in the petition filed in the suit entitled John Adden *vs.* John H. Adden, No. 5738, civil district court, parish of Orleans, State of Louisiana.

3rd. That he is, furthermore, so estopped by his judicial admission when he signed the bond of Stillman E. Parker as an assignee of the insolvent estate of John H. Adden, No. 1321, insolvent court of Middlesex county, Massachusetts, that he was a resident of said State of Massachusetts.

130 Reserving said objections and all other legal objections to the aforesaid interrogatories and to the answers of the witnesses which may be made thereto, counsel for J. M. B. Reynolds, assignee, propound the following cross-interrogatories:

1st cross-interrogatory. If, in answer to any of the interrogatories, you have stated where the said John Alden and his wife have been living and have had their family residence during the last six years,

you will also state what personal knowledge you have of each and every statement you have made. Did you ever visit them at the place you call their family residence; if yea, when? In what part of the town or place is John Adden's family residence located? Describe it. Who were living there at this time? Name each person living there. When were you last there? How do you know that such house was his family residence? Do you know where John Adden, defendant, voted during that period? Is it not, to your knowledge, that during that period and prior to March 10th, 1882, whenever John Adden voted he voted at Reading, Massachusetts? Did he ever vote during the period mentioned anywhere else than at Reading, Massachusetts, so far as your knowledge extends? If he did vote elsewhere, when and where did he vote? Was he not assessed and did he pay a poll-tax at Reading, Massachusetts, during said period? Was he not in the habit of spending his summers or the greater part of them during that period and prior to the year 1882 in Reading, Massachusetts?

131

2nd cross-interrogatory. If in answer to any of the interrogatories you say that defendant, John Adden, resided in New Hampshire on the 10th or 11th of March, 1882, state if said Adden did not at or about that time become the surety for Stillman E. Parker, as an assignee of John H. Adden, in the insolvent court of Middlesex county, Massachusetts. Have you ever seen the bond given by said Stillman E. Parker to enable him to qualify as such assignee? If yes, who signed said bond as surety? Did you ever see said bond?

General interrogatory. State any other fact or circumstance within your knowledge showing or tending to show that John Adden's residence was in Reading, Massachusetts, in the early part of March, 1882, and for a number of years previous to that date.

(Signed) BLANC & BUTLER, *Attorneys.*

Depositions of witnesses produced, sworn, and examined on the days hereinafter stated at the office of the clerk of the supreme court of Coos county, New Hampshire, under and by virtue of the annexed commission issued out of the civil district court for the parish of Orleans, in the State of Louisiana, to take depositions in a certain cause pending and at issue between John Michael Brewster Reynolds, plaintiff, and John Adden and the Civil Sheriff and John H. Adden, defendants.

132

CHESTER B. JORDAN, of Lancaster, in the county of Coos and State of New Hampshire, who, being first duly sworn on the Holy Bible, on this 28th day of April, 1883, doth depose and say as follows:

First. To the first interrogatory he saith: My name is Chester B. Jordan; my age, 43 years last October; occupation, lawyer, and place of residence Lancaster, Coos county, New Hampshire; have resided in said Lancaster since May, 1868; have within the last six years been justice of the peace, representative of said town of Lancaster to the general court of said State, and am speaker of the present house of representatives for said State.

Second. To the second interrogatory he saith: I am acquainted with the defendant, John Adden, and have been for about thirteen years.

Third. To the third interrogatory he saith: He is a married man. He was married to his present wife in Lancaster, N. H., thirteen years ago this present spring, I think. She was then living with her father, Oliver Wood, now deceased, in said Lancaster.

Fourth. To the fourth interrogatory he saith: In May, 1875, they bought a house, barn, and land in Lancaster village, N. H., and have made it their home and family residence ever since.

133 Fifth. To the fifth interrogatory he saith that he makes his answer to the fourth interrogatory his answer to this.

Sixth. To the sixth interrogatory he saith that the said John Adden and wife did live in said family residence, and I think they moved into it the summer after they purchased it.

Seventh. To the seventh interrogatory he saith that they did live in said residence prior to 1878.

Eighth. To the eighth interrogatory he saith that they have lived in it since 1878 until the summer or early fall of 1882, when Mrs. Adden, wife of said John, became insane and was by her husband taken to the asylum for the insane in Concord, in said State, where she has ever since resided, and her husband most of the time since then has been stopping with his son in Northumberland, in said State—the first town north of said Lancaster.

Ninth. To the ninth interrogatory he saith that said family residence was the family residence of said John Adden and wife on March 10th, 1882, and March 11th, 1882.

Tenth. To the 10th interrogatory he saith: At the time said John Adden and wife were married I understood from them that they were going to Reading, Mass., to reside; whether they did or not I do not know except by hearsay. In the summer of 1875 they moved their household goods into the house they bought in May previous, as aforesaid, but where they moved from I do not know, except as told me by Mrs. Adden, who said they came from Reading, Massachusetts.

134 Eleventh. To the eleventh interrogatory he saith: Their household effects and furniture are in their said house in said Lancaster.

Twelfth. To the twelfth interrogatory he saith: At the time said residence was purchased, May 11th, 1875, I understood that said Adden paid for the same, but that the conveyance thereof was to his wife, Harriet A. Adden, in whose name the title has ever since stood.

Thirteenth. To the thirteenth interrogatory he saith: They have kept house and had their family establishment in said house so bought as aforesaid.

Fourteenth. To the fourteenth interrogatory he saith: At the time of the marriage of the said Adden to his present wife I was boarding with Mrs. Adden's sister and therefore intimately acquainted with the family. I boarded there three years. In December, 1874, I was at Mrs. Adden's father's house; drew his will, and was by him nominated therein as executor thereof. The said

testator was then in very poor health, and the said Mrs. John Adden was then with him and had been for some time. Whether she went back to Reading to live after that I do not know, but my impression is that she did not. The said Oliver Woods, Mrs. Adden's father, in December, 1878, or January, 1879—I am not now positive which—died, and I was constituted executor of said will and entered upon the settlement of his estate. The said Mrs. John Adden took some real estate direct under the will and was also to receive
135 her distributive share in other portions of said estate. Said estate is not fully settled yet, and I have from the time of her father's death until she went to Concord aforesaid had occasion to see and have seen her frequently and opportunities to know of her residence. Since the residence of said John Adden and wife in said Lancaster said John Adden until the past year has been absent from his home a large share of the time, but my impression now is that I have seen him here in Lancaster, about his home, every year, but more in the summer season than in the winter. I have seen him frequently in the meat market buying meat and groceries; have seen him driving about the town with their team, both alone and with his wife. I know that he was, by the probate court of said county of Coos, appointed guardian of his said wife when she was decreed an insane person last year; that at our State election on the first Tuesday of last November his name was on the check-list of voters of said town of Lancaster; that he voted at said election, and that the law of the State of New Hampshire is that a man shall reside and have his residence in a town six months before he is entitled to vote.

In answer to the cross-interrogatories he doth depose and say as follows:

First. To the first cross-interrogatory he saith: I cannot
136 give further information as to the statements heretofore by me made, except to say that I do remember of having been at the home of said John Adden and wife once, at least, since they have lived in said Lancaster when they were both present, and think more than once, but am not positive. I can't tell the date when I was there and Mr. Adden was at home with his wife, neither can I give the dates of my visits there on business with his wife when he was not at home, only to say that I have been there more or less every year since they bought their house. Said residence is on Middle street, on the southerly side thereof, a few rods from Main street, on the bank of Israels river, and in the most thickly settled part of the village. I never knew any one to live there except Mr. Adden and wife and a domestic, except for awhile a gentleman occupied one of the chambers, but took his meals out, and at another time a tinsmith named Morse roomed in another chamber. I have not been in the house since Mrs. Adden was removed to the asylum at Concord. I know said house to be their family residence from the fact that his wife lived there all the time from the time when they purchased and fitted it up to the time she was taken insane, and that he lived there when he was at home. I do not know where John

Adden voted during that period except as above stated. It is not to my knowledge that he voted in Reading. I was never in Reading and know nothing of what ever happened there. I know nothing about his ever having voted anywhere except as I have
137 before stated. I don't know where he was taxed or whether he ever paid any tax during said period. I don't know whether he ever spent a summer or any part of a summer in Reading during that period or before. As before stated, I was never there and know nothing of what has taken place there.

Second. To the second cross-interrogatory he saith: I do not remember that said Adden was personally present in said Lancaster March 10th or 11th, 1882, but I know that his home was here and his wife resided therein at that time. I have no knowledge whatever as to his being surety for Stillman E. Parker or anybody else at or about that time, and I have never seen said Parker's bond and do not know who signed it.

To the general cross-interrogatory he saith: I know no circumstance showing or tending to show that said Adden's residence was in Reading since the year 1875.

(Signed) CHESTER B. JORDAN.

Sworn to and subscribed before me this the 28th day of April, in the year 1883.

(Signed) M. A. HASTINGS,
Justice of the Peace.

ERASTUS V. COBLEIGH, who, being first duly sworn on the Holy Bible, on this second day of May, in the year of our Lord 1883, doth depose and say as follows:

138 First. To the first interrogatory he saith: My name is Erastus V. Cobleigh. I was 46 years old last February; am a hardware merchant, and my place of residence is Lancaster, Coos county, New Hampshire; have lived in Lancaster 17 years last fall; was selectman of said town for the years 1881 and 1882.

Second. To the second interrogatory he saith: I am acquainted with the defendant, John Adden; have known him eight or ten years.

Third. To the third interrogatory he saith: He is a married man. He was married in Lancaster, I understood, some thirteen years ago. She was living in said Lancaster.

Fourth. To the fourth interrogatory he saith: At Lancaster aforesaid.

Fifth. To the fifth interrogatory he saith: They have a family residence in Lancaster, N. H., and have had one there some eight years.

Sixth. To the sixth interrogatory he saith: They did live in said family residence, and moved into it some eight years ago, soon after they bought it.

Seventh. To the seventh interrogatory he saith: They did live in it prior to 1878.

Eighth. To the eighth interrogatory he saith: They have lived in it since 1878.

Ninth. To the ninth interrogatory he saith: It was their family residence on March 10th, 1882, and March 11th, 1882.

139 Tenth. To the tenth interrogatory he saith: I understood that they moved away from Reading, Mass. They moved into their house in Lancaster about eight years ago; moved their household furniture.

Eleventh. To the eleventh interrogatory he saith: They are in said family residence in said Lancaster.

Twelfth. To the twelfth interrogatory he saith: They do own said residence, and have so owned it about eight years.

Thirteenth. To the thirteenth interrogatory he saith: They have kept house and had their family establishment in said Lancaster village on Middle street, on the opposite side from and in sight of my store.

Fourteenth. To the fourteenth interrogatory he saith: I have seen said John Adden more or less every year during the time aforesaid—usually in the summer—in said Lancaster village, and have had considerable business deal- with him. Some five or six years ago he hired a horse of me and kept him some six weeks in the summer. He has bought drain pipe of me for sink drains for said house. I have sold him one or more stoves, and some six years ago I put a furnace into his said house and he paid me for it.

He has bought other things of me about every season since he has owned said house. Several years ago I know that he bought a horse, which he kept some two years. He brought his carriage from Massachusetts. Last fall, at our State election, on the first

140 Tuesday of November, his name was on the check-list of voters of this town, and he voted at that election.

In answer to the cross-interrogatories he doth depose and say as follows:

First. To the first cross-interrogatory he saith: They have had their family residence in plain sight of my store during that time. I have been personally acquainted with both of them, and have been to their house and seen both of them there on business more or less every year since they have lived there as aforesaid. It is a two-story building on the southerly side of Middle street, in Lancaster village, with ell and barn. At one time John Archibald and wife lived there; at another time Eugene Leavitt and wife, and at another time Christian Deitrich and wife. They occupied the upper part of the house. I was there last summer the last time. I know it was his family residence, because he and his wife lived there. I do not know where he voted except as before stated. It is not to my knowledge that he voted in said Reading prior to March 10th, 1882. I do not know where he voted except as before stated. I do not know whether he was assessed or ever paid a poll-tax in Reading. I do not know whether he spent any portion of his summers prior to 1882 in Reading. I do not know that he was at said Lancaster every summer, as before stated.

Second. To the second interrogatory he saith: I do not
141 know whether said John Adden on the 10th or 11th of March, 1882, became the surety for Stillman E. Parker or not. I have never seen any such bond.

Third. To the general cross-interrogatory he saith that he knows of no fact showing or tending to show that said Adden's residence was in Reading, Mass., in the early part of March, 1882, or for a number of years prior thereto.

(Signed) ERASTUS V. COBLEIGH.

Sworn to and subscribed before me this the second day of May, in the year 1883.

(Signed) M. A. HASTINGS,
Justice of the Peace.

JONAS POWERS, who, being first duly sworn on the Holy Bible, on this 2d day of May, in the year of our Lord 1883, doth depose and say as follows:

First. To the first interrogatory he saith: My name is Jonas Powers; age, 55 years; occupation, cattle dealer; place of residence, Lancaster, Coos county, New Hampshire; have resided there since the fall of 1879; was one of the selectmen of said town for the year 1882.

Second. To the second interrogatory he saith: Am acquainted with the defendant, John Adden; have known him ever since I came to Lancaster.

Third. To the third interrogatory he saith: He is a married
142 man. He was married some thirteen years ago to his present wife, but do not remember where, and think she was living at the time with her father, Oliver Woods, in said Lancaster.

Fourth. To the fourth interrogatory he saith: In said Lancaster.

Fifth. To the fifth interrogatory he saith: They have a family residence in Lancaster, N. H., and have had one some eight years.

Sixth. To the sixth interrogatory he saith: They did live in said residence until last summer, when she was taken insane and removed to the asylum at Concord, N. H. They moved into it about eight years ago.

Seventh. To the seventh interrogatory he saith: They did live in said family residence prior to April, 1878.

Eighth. To the eighth interrogatory he saith: They have lived in it since 1878.

Ninth. To the ninth interrogatory he saith: It was their family residence on March 10th, 1882, and March 11th, 1882.

Tenth. To the tenth interrogatory he saith: I do not know whether they ever lived in Reading, Massachusetts, or not.

Eleventh. To the eleventh interrogatory he saith: Their household effects and furniture are in said family residence.

Twelfth. To the twelfth interrogatory he saith: They do own
said family residence. It has been so owned some eight
143 years.

Thirteenth. To the thirteenth interrogatory he saith: They

have kept house and had their family establishment for the last six years in their house on Middle street, in said Lancaster village.

Fourteenth. To the fourteenth interrogatory he saith: Within two or three years I have been better acquainted with and seen more of said John Adden than previously. I have met him frequently at his said house in said Lancaster, and for the last eight years I have seen him more or less in said Lancaster during the summer months. During a portion of that time he has kept a team, and I have seen him driving about the village both with his wife and alone during the summer season. I knew of his buying a horse of one Wallace Lindsey, which he kept in the stable at his said residence.

In answer to the cross-interrogatories he doth depose and say as follows:

First. To the first cross-interrogatory he saith: I have known of their residence from personal observation. At one time I kept a store in said Lancaster and furnished them with groceries for their house, and have been personally acquainted with both of them, as before stated. I have visited them at their family residence at different times. It is located on Middle street. It is a two-story house with ell and barn. I have understood that there had been others
144 who occupied part of said house a part of the time during said eight years, but know their names only from report. I was at the house last winter the last time; went there with Mr. Adden. I know it was their family residence, because they owned it and lived in it. I do not know where John Adden voted during that period. It is not to my knowledge that he ever voted in Reading, Massachusetts. I don't know that he voted anywhere during that period. I do not know where he was assessed or whether he paid any poll-tax during that period. I don't know whether he was ever in Reading or not. I know he was here more or less every summer during that period in said Lancaster.

Second. To the second interrogatory he saith: I don't know whether he was ever surety of Stilman E. Parker or not. I never saw any such bond.

Third. To the general cross-interrogatory he saith: I know of no fact showing or tending to show that the residence of said Adden was in said Reading in the early part of 1882.

(Signed) JONAS POWERS.

Sworn to and subscribed before me this the 2d day of May, in the year 1883.

(Signed) M. A. HASTINGS,
Justice of the Peace.

145 EDWARD F. ADDEN, who, being first duly sworn on the Holy Bible, on this third day of May, in the year of our Lord 1883, doth depose and say as follows:

First. To the first interrogatory he saith: My name is Edward F. Adden; my age, 42 years; occupation, farmer, and place of resi-

dence, Northumberland, Coos county, New Hampshire; have been one of the school committee of said town during last six years.

Second. To the second interrogatory he saith: I am acquainted with John Adden; have known him all my life. He is my father.

Third. To the third interrogatory he saith: He is a married man; was married at Lancaster, N. H., to his present wife in 1870. She was then living at said Lancaster.

Fourth. To the fourth interrogatory he saith: At said Lancaster.

Fifth. To the fifth interrogatory he saith: They have a family residence there and have had one there since 1875.

Sixth. To the sixth interrogatory he saith: They did live in it; they moved into it in 1875.

Seventh: To the seventh interrogatory he saith: They did live in it prior to 1878.

Eighth: To the eighth interrogatory he saith: They have lived in it since 1878.

Ninth. To the ninth interrogatory he saith: It was their
146 family residence on March 10th, 1882, and March 11th, 1882.

Tenth. To the tenth interrogatory he saith: They did move away from Reading, Mass. They moved to said Lancaster in 1874, I think, with their household goods.

Eleventh. To the eleventh interrogatory he saith: Their household effects and furniture are in their house at said Lancaster.

Twelfth. To the twelfth interrogatory he saith: They do own said residence and have owned it since 1875.

Thirteenth. To the thirteenth interrogatory he saith: They have kept house and had their family establishment on Middle street, in said Lancaster village, for the last six years.

Fourteenth. To the fourteenth interrogatory he saith: The defendant, John Adden, has been at said Lancaster the greater part of every summer since 1875. I have visited at his house frequently, and have seen a great deal of him when he has been at Lancaster; I have ridden with him often; have eaten as his house many times, and know of the fact of his family residence being at said Lancaster from personal observation. Northumberland is the first town north of Lancaster, and my farm is only five miles from Lancaster village.

In answer to the cross-interrogatories he doth depose and say as follows:

First. To the first cross-interrogatory he saith: I have fre-
147 quently visited them at their family residence during each summer of those years. It is located on the south side of Middle street, on the bank of Israels river, about twenty rods from Main street, in said Lancaster village. It is a two-story dwelling with ell and barn attached. John Adden and wife were living there with a domestic. A Mr. Deitrich and wife lived in part of the house at one time, and there have have been others who occupied a portion of the house at different times whose names I do not know; was at the house last in March, 1883. I know it was their family residence, because they lived in it. I boarded in the family at one time six weeks while attending court at Lancaster as a juror.

It is not to my knowledge that he ever voted in Reading, Mass. Whenever he has voted he has voted at said Lancaster, so far as I know, during that period. He was never assessed or paid a poll-tax at said Reading, to my knowledge, during that period. He was not, to my knowledge, in the habit of spending his summers or a greater portion of them in said Reading prior to the year 1882.

Second. To the second cross-interrogatory he saith: I don't know that said John Adden ever became surety for said Stillman E. Parker. I never saw any such bond.

Third. To the general cross-interrogatory he saith: I know of no fact showing or tending to show that John Adden's residence was in said Reading in March, 1882, or for seven years prior thereto. I know that about the time he moved to said Lancaster he sold his house in said Reading, and that he moved all his household
148 effects to said Lancaster.

(Signed) EDWARD F. ADDEN.

Sworn to and subscribed before me this the third day of May, in the year 1883.

(Signed) M. A. HASTINGS,
Justice of the Peace.

OSCAR F. BOTHELL, who, being first duly sworn on the Holy Bible, on this third day of May, in the year of our Lord 1883, doth depose and say as follows:

First. To the first interrogatory he saith: Oscar F. Bothell; am 42 years old; am a farmer, produce dealer, and drover; reside in Lancaster, Coos county, New Hampshire; have lived there since I was eight years old; have been collector of said town three years of the said six.

Second. To the second interrogatory he saith: Am acquainted with the defendant, John Adden; have known him about ten or twelve years.

Third. To the third interrogatory he saith: He is a married man. I knew him when he was married to his present wife. They were married in Lancaster. I can't tell the date of their marriage. She was living in Lancaster at the time.

149 Fourth. To the fourth interrogatory he saith: At Lancaster aforesaid.

Fifth. To the fifth interrogatory he saith: They have a family residence in Lancaster, N. H., and have had one there about eight years.

Sixth. To the sixth interrogatory he saith: They did live in it; moved into it about eight years ago.

Seventh. To the seventh interrogatory he saith: They did live in it prior to 1878.

Eighth. To the eighth interrogatory he saith: They have lived in since 1878.

Ninth. To the ninth interrogatory he saith: It was their family residence on March 10th, 1882, and March 11th, 1882.

Tenth. To the tenth interrogatory he saith: They moved away

from Reading, Mass., about eight years ago to said Lancaster. They moved their household goods and furniture.

Eleventh. To the eleventh interrogatory he saith: Their household furniture and effects are in their said house in Lancaster.

Twelfth. They do own said residence, or I understand it, and have so owned it about eight years.

Thirteenth. To the thirteenth interrogatory he saith: They have kept house and had their family establishment in said house in Lancaster for the last six years.

Fourteenth. To the fourteenth interrogatory he saith: Mr. Adden used to come to Lancaster to spend his summers, and wanted
150 to purchase a team that he could use when he was here and one that his wife could use when he was not here. He bought a horse that was recommended to him as being a safe horse. He brought the carriage from Massachusetts. He kept said horse about two years. While I was collector I know that Mrs. Adden paid me at two different times the tax upon said residence with Mr. Adden's check. She paid it prior to 1880.

In answer to the cross-interrogatories he doth depose and say as follows:

First. To the first cross-interrogatory he saith: I have called at their said residence a good many different times and met said John Adden and wife there. Said John Adden and wife have also frequently ridden out to my house to call upon me and my family. I have called upon them at their said house more or less every year since they have lived there as aforesaid. At one time I was there I went into their cellar and assisted Mr. Adden about fixing a pump. They had a domestic. Mr. Leavitt and wife occupied the upper part of said house at one time. I was last there during the fall of 1882. I know it to be his family residence, because he occupied it as such. I know that said Adden was in Lancaster as many as two or three different times on the day of our election, but whether he voted or not I do not know. I do not know of his voting anywhere else. It is not to my knowledge that he ever voted in
151 Reading, Massachusetts. He did not pay a poll-tax, nor was he assessed, to my knowledge, in Reading, Mass., during that period. I don't know that he spent any part of his summers in said Reading during that period. I should say that he spent the greater portion of every summer in said Lancaster during that period.

Second. To the second cross-interrogatory he saith: I do not know that said John Adden ever became the surety of Stilman E. Parker. I have never seen such a bond.

Third. To the general cross-interrogatory he saith: I know of no fact showing or tending to show that said John Adden's residence was in Reading, Mass., in the early part of March, 1882, and for a number of years prior thereto.

(Signed) O. F. BOTHELL.

Sworn to and subscribed before me this the third day of May, in the year 1883.

(Signed) M. A. HASTINGS,
Justice of the Peace.

OSSIAM RAY, who, being first duly sworn on the Holy Bible, on this 7th day of May, in the year of our Lord 1883, doth depose and say as follows:

First. To the first interrogatory he saith: My name is Ossiam Ray; age, 47 years; Dec. 13, 1882; occupation, lawyer, and place of
152 residence, Lancaster, Coos county, New Hampshire; have resided there ever since the first Monday in March, 1854, being temporarily absent a year or more in 1855 and 1856; have been justice of the peace throughout the State 20 years and upwards; United States attorney for the district of New Hampshire for about two years preceding Dec. 22 (I think that is the day), 1880; a member of Congress for January and February and to March 4th, 1881, in the 46th Congress; was a member of the 47th Congress, and am a member of the present, 48th, Congress.

Second. To the second interrogatory he saith: I am acquainted with John Adden, the defendant, and have known him certainly since 1870, probably earlier.

Third. To the third interrogatory he saith: He is a married man. I knew of his being married to his present wife at the time of their marriage. I could not state the date of their marriage, but it was — the dwelling-house of her father, Oliver Wood, in the same village where I dwell. It must have been 10 or 12 years ago; perhaps more.

Fourth. To the fourth interrogatory he saith: For several years last past, I should think for the last six years certainly, they have resided in Lancaster village, within 75 or 100 yards of my house. Their dwelling-house is in plain sight of my house.

Fifth. To the fifth interrogatory he saith: Yes. My last answer, I think, is a full answer to this question.

153 Sixth. To the sixth interrogatory he saith: Mr. and Mrs. John Adden, I think, moved into said dwelling-house very soon after Mr. Adden purchased it. I cannot give the date of the purchase, but my impression is it was more than six years ago. I remember the fact of the purchase and of their fitting up and furnishing the house and moving into it, and they have occupied it as a family residence, so far as I know, ever since, or at least until quite recently. Mrs. Adden was taken insane last summer, and in the fall, I think, her husband took her to the insane asylum at Concord, N. H., where I understand she has ever since remained. Mr. Adden remained in occupation of the house until I went to Washington, Nov. 30, 1882. Since my return home, about the 25th of March, I have not seen Mr. Adden here and do not know what, if any, disposition he has made either of his residence or of his household goods. I wish to add that I think I have seen Mr. Adden here every year or nearly every year since he bought and moved into their dwelling-house aforesaid, during the summer months. For a few years last past I have understood that he had spent the major part of the time in New Orleans on account of business engagements or through some connection there with his son. Mrs. Adden has occupied their home constantly from the time they went into it, several years ago, until her removal last fall to the insane asylum.

Seventh. To the seventh interrogatory he saith: I think they did.

154 Eighth. To the eighth interrogatory he saith: Yes; after Mrs. Adden went to the insane asylum I know of said John Adden's occasionally going up to his son's dwelling-house, about five miles above here, on the river, and staying with his son a portion of the time.

Ninth. To the ninth interrogatory he saith: To the best of my knowledge, information, and belief, it was.

Tenth. To the tenth interrogatory he saith: I understood they moved from Reading, Mass., to Lancaster, N. H., at or about the time they purchased their dwelling-house here. I don't know what they moved except themselves; whether they moved any household goods or not I don't know.

Eleventh. To the eleventh interrogatory he saith: At their dwelling-house in this village, I suppose. I have no knowledge of their ever being moved from their house.

Twelfth. To the twelfth interrogatory he saith: All I know about the title to their dwelling-house is by hearsay. At the time it was bought I understood that the property was conveyed to Mrs. Adden as a gift from her husband; that he paid for it. Within a year or two I have heard Mr. Adden say so.

Thirteenth. To the thirteenth interrogatory he saith: So far as I am aware, exclusively at their dwelling-house in this village.

Fourteenth. To the fourteenth interrogatory he saith: I don't know what the cause is about and don't know what will ben-

155 efit or hurt him in it, but am ready and willing to answer the questions. I have stated everything that occurs to me at this moment bearing upon the subject indicated by the questions.

In answer to the cross-interrogatories he doth depose and say:

First. To the first cross-interrogatory he saith: I don't think I ever made what is here denominated a "visit" at the house of Mr. and Mrs. Adden. I think I have called there on business errands every year since they occupied their said dwelling-house in this village. I cannot give dates or all the errands. Sometimes I have called there to inquire of Mr. John Adden touching business matters I had to transact with his son, Edward F. Adden, an extensive cattle and sheep dealer, residing five miles north of here. I was acquainted with Mrs. John Adden before her marriage, when she lived with her father in Northumberland, about six miles from here, and after her father moved into this village, as well as since she married Mr. Adden. I think I have been acquainted with her 25 years or more. Their family residence is located, I should say, within thirty rods of my law office. My office has been, I should say, within thirty rods of their dwelling-house ever since they owned it; said residence is on Middle street, on the side next to Israel's river. It is a small-sized two-story house, ell, and stable. Mr. and Mrs. Adden and one or more servants were living there. As before stated, Mr. Adden was away from home most of the time, except in the summer.

156 Mrs. Adden, until she went to the insane asylum, was almost

always at home, and perhaps always when I went there. I was last at the house, I think, in October or November, 1882, probably in November, although I have passed the house on the street, within 30 or 40 feet of it, many times since. I know it was his family residence only because he bought it and furnished it, as I understood, and he and his wife moved into it, and, so far as I know, have always kept their home there ever since. When Mr. Adden was in this part of the country, so far as I know, he invariably went there and remained there. I have frequently seen him there and have seen him out driving with his wife when in town. I do not remember anything about his voting anywhere except at our election, held the first Tuesday of November, 1882. Previous to that election I know he was seen and solicited to attend the polls and vote election day. He promised to do so. I saw him election day in the town hall here, and he said he had voted here. I don't know about any other election, whether he voted or not, here or elsewhere. I don't know anything about his voting at Reading, whether he did or not. I don't know whether he was assessed or paid a poll-tax in Reading, Mass. I don't know anything about it, whether he ever paid a poll-tax anywhere. I don't know whether he ever spent any of his time in Reading, Mass., after they moved into their dwelling-house here in Lancaster or not. Reading is 200 miles or more away from here.

157 Second. To the second cross-interrogatory he saith: I don't know anything about John Adden's ever becoming a surety for Stilman E. Parker in any matter whatever. I never saw any such bond, and never knew anything about it.

Third. To the general cross-interrogatory he saith: I know of no such fact or circumstance as the general cross-interrogatory calls for.

(Signed) OSSIAM RAY.

Sworn to and subscribed before me this the 7th day of May, in the year 1883.

(Signed) M. A. HASTINGS,
Justice of the Peace.

STATE OF NEW HAMPSHIRE, *Coos*, } *ss*:

I, M. A. Hastings, clerk of the supreme court within and for said county, hereby certify that M. A. Hastings, before whom the annexed depositions were given and sworn to and who has thereunto subscribed his name, was at the time of so doing a justice of the peace in and for the county aforesaid, duly commissioned and sworn and duly authorized to administer oaths and take acknowledgment of deeds, etc., and that his signatures thereunto are genuine.

In testimony whereof I have hereunto signed my name and affixed the seal of said court this 7th day of May, A. D. 1883.

[SEAL.] (Signed) M. A. HASTINGS, *Clerk.*

158 THE STATE OF NEW HAMPSHIRE:

I hereby certify that Moses A. Hastings is a justice of the peace and quorum throughout the State, duly commissioned and qualified according to the constitution and laws of said State; that his term of office began on the second day of December, 1879, and will end on the first day of December, 1884.

In testimony whereof I have hereunto subscribed my [SEAL.] official signature and affixed the seal of the State, at Concord, this sixteenth day of April, 1883.

(Signed) A. B. THOMPSON,
Secretary of State.

I, M. A. Hastings, the undersigned, justice of the peace, do certify that I caused Chester B. Jordan, Erastus V. Cobleigh, Jonas Powers, Edward F. Adden, and Ossiam Ray, witnesses hereinbefore named and examined, to appear before me at the times and place above named, and, after publicly and solemnly swearing each separately to tell the truth, the whole truth, and nothing but the truth in answer to the annexed direct and cross interrogatories, I then and there proceeded to examine each separately by propounding to him the said direct and cross interrogatories and reducing in my
159 presence and that of the witness his answers thereto in writing with my own hand, and I then caused each witness to sign his deposition in my presence, as already stated.

In testimony whereof I have hereunto set my hand on this the 7th day of May, in the year 1883.

(Signed) M. A. HASTINGS,
Justice of the Peace.

John H. Adden	in answer to first	nineteen	interrogatories.	
A. V. Lynde	"	"	"	"
William W. Davis	"	"	"	"
A. P. Damon	"	"	"	"
Eliab Parker	"	"	"	"
S. E. Parker	"	"	"	"

Taken under commission dated May 1st, 1883, and copied at page 442 *et seq.* of this transcript.

160 *Extracts from Deposition of John Adden, Taken under Commission Dated March* 29, 1883, *before Judge F. A. Monroe, Commissioner, and Filed Nov.* 24, 1883. *Offered by Defendant on Motion to Remand.*

STATE OF LOUISIANA:

Civil Dist. Court, Division B, Parish of Orleans.

J. M. B. REYNOLDS
vs.
JOHN ADDEN *et als.*
} No. 5586.

Testimony and note of evidence taken under commission before Hon. F. A. Monroe, commissioner, Saturday, 31st of March, 1883.

Appearances: Blanc & Butler, for pl'ff; E. N. Whittemore & C. S. Kellogg, for d'f't.

Reserving all legal objections made and to be made to the questions and answers in the testimony herein, counsel for the defendant, John Adden, consent that E. & A. H. Batcheller & Co. may use said testimony in their suit against John Adden.

(Signed) C. S. KELLOGG AND
E. N. WHITTEMORE,
Att'ys for the Defendant, John Adden.

161 Direct examination of JOHN ADDEN, "page 127:"

Q. Did you go directly to Boston?
A. Yes, sir.
Q. How long did you remain in Boston then?
A. Well, I might have remained a few days and then went to Lancaster, my home.
Q. How long did you remain in Boston?
A. Two or three days, perhaps, or so, and then I went to Lancaster.
Q. How long did you remain in Boston? I did not ask you where you went to from there. I ask you how long you remained in Boston.
A. Well, I told you a few days.

Direct examination of JOHN ADDEN, April 2nd, 1883, "page 51:"

A. Paid whatever was due in the note, the interest being added, whatever it was—whether the interest was three months or six months.
Q. How did he pay it?
A. He paid it in money, I suppose.
Q. You suppose?
A. Yes, sir.

Q. Where were you when he paid it?

162 A. I was at home, at New Hampshire, up to Lancaster.

Q. Did he pay it by a remittance there or mail?

A. No, sir.

Q. Well, will — explain please how he paid it?

A. He paid it through Mr. A. P. Damon, and Mr. A. P. Damon sent me a check for it.

Cross-examination of JOHN H. ADDEN, April 12th, 1883, "pages 9 & 10:"

A. They are, sir.

Q. On the first eight notes spoken of has the interest been paid that is endorsed on the back?

A. It has.

Q. Well, on the last three notes has the interest been paid that is endorsed on the back?

A. It has.

Counsel for defendant offers in evidence the notes 1 to 8, inclusive, and "A," "B," & "C."

Q. Were you in New Orleans in the year 1877?

A. I was.

Q. What were you doing here?

A. Tending to John H. Adden's business.

Q. Did you go North that year?

A. Yes, sir.

163 Q. Where did you go?

A. I went to New Hampshire—my residence—my home.

Mr. Butler objects to any testimony from this witness with reference to his home, and I will state my objections here: First, because in the suit No. 5586 of the docket of this court, entitled John Adden against John H. Adden, the plaintiff in that suit, the witness upon the stand, represents himself as a resident of the State of Massachusetts; Further, because in that suit, 5738 of the docket of this court, entitled John Adden *versus* John H. Adden, the plaintiff in that suit and the witness upon the stand represents himself as a resident of the State of Massachusetts; further, because in the insolvent proceedings of John H. Adden pending in the insolvent court in Middlesex county, State of Massachusetts, the plaintiff in this suit, the witness upon the stand, there signed the bond of Stillman E. Parker as assignee in that insolvency for the purpose of enabling said Stillman E. Parker to qualify as assignee, the law of Massachusetts at the time requiring the surety upon the bond to be a resident of the State of Massachusetts; because the examination is a cross-examination and no inquiry was made of the witness upon the stand as to where he resided, and as a matter of cross-examination it is an improper question. I plead that he is judicially estopped by these admissions from giving any evidence in this case of his residence elsewhere than in the State of Massachusetts.

The commissioner simply refers this objection to the court.

164 Cross-examination of JOHN H. ADDEN, April 12, 1883, "pages 14 & 15:"

Q. Mr. Adden, were you in New Orleans in the year 1878?
A. I was.
Q. What were you doing here?
A. Tending to John H. Adden's business.
Q. Did you go North that year?
A. Yes, sir; I did.
Q. Where did you go?
A. I went to New Hampshire, my home and residence.
Q. Whereabouts in New Hampshire?
A. Lancaster, New Hampshire.
Q. Where were you on March 16th, 1882?
A. I was in Boston.
Q. Did you telegraph to Kellogg, your attorney, from Boston about that time to bring the suit No. 5586?
A. I did.
Q. Did you afterwards send him from Boston the notes, 1 to 8, which you have just looked at?
A. I did.
Q. Did you tell your attorneys prior to March 16th, 1882, where you resided?
A. I did not.
Q. Did you tell them prior to April 4th, 1882, where you resided?
A. I did not.

All questions with reference to the residence of Mr. Adden
165 Mr. Butler objects to on the ground heretofore stated.

Q. Did you know what was attached here in your suit 5586 and in your suit 5738?
A. I don't know that I understand.

Cross-examination of JOHN H. ADDEN, April 12, 1883, pp. 16, 17:

Q. Did Mr. Weber ask Mr. Hubbard to sign those bonds?
A. He did not.
Q. Who told you so?
A. Mr. Hubbard.
Q. Are you and Mr. Hubbard old friends?
A. Yes, sir; we have been friends for several years.
Q. When did you arrive in this city this last time?
A. March.
Q. This last March?
A. Yes, sir.
Q. Where did you come from?
A. I came from my home in New Hampshire.

Objected to again by counsel for plaintiff on the same ground as stated heretofore.

Q. For what purpose did you come here?
A. To attend to my lawsuit here.

Q. When did you intend to leave this city?
A. June.
Q. This coming June?
A. Yes, sir.
Q. Where did you then intend to go to?
166 A. Then go to New Hampshire; Lancaster, New Hampshire; my home.

Objected to again on the same ground as heretofore.

Q. Have you ever desired or attempted to avoid the process of this court—this civil district court of the parish or Orleans?
A. No, sir; I have not.
Q. Did John H. Adden know of your attachments in this city before they were made?
A. He did not.

Cross-examination of JOHN H. ADDEN, April 12, 1883, pp. 19, 20:

Q. Do you live in Boston?
A. I do not.
Q. Did you ever live in Boston?
A. I never did.
Q. Do any of your relatives live there?
A. None.
Q. What did you mean when you stated in your testimony day before yesterday that you went home to Boston?
A. Well, I always get home to Boston; go to the headquarters of John H. Adden and stay they a short time and go home then to Lancaster, New Hampshire, my residence.

Same objection by counsel for plaintiff on the ground heretofore stated.

Q. Were the headquarters of John H. Adden's business then at Boston?
167 A. They were.
Q. How long has John H. Adden had the headquarters and business in Boston?
A. Since 1861 or 1862.

Cross-examination of JOHN H. ADDEN, dated April 12th, 1883, "pages 21 & 22:"

Q. You have been a number of years in the employ of John H. Adden?
A. I have.
Q. Spending most of your time in New Orleans attending to the business for him here?
A. I have.
Q. Was it your custom to go North; was it your custom every year to go North?
A. It was.
Q. Did you first go to Boston?

A. Always went to Boston first.
Q. Then where did you go?
A. I went home to Lancaster.

Same objection by counsel for plaintiff as stated heretofore.

Q. Where is your home?
A. Lancaster.

168 Objected to on the same ground as stated heretofore.

Q. How long has it been your home?
A. Seven or eight years.

Objected to as before.

Q. Do you or your wife own property there?
A. We do.
Q. Who owns it—you or your wife?
A. My wife owns it.
Q. What kind of property?
A. Real estate—homestead where we live.

Objected on the ground as stated heretofore.

Q. How long does she own it?
A. Six or seven years.
Q. The last six or seven years?
A. Yes, sir.

Cross-examination of JOHN H. ADDEN, dated April 12th, 1883, "pages 23 & 24:"

Q. Have you and she been residing—keeping house—there?
A. Yes, sir; we have.
Q. Where did you live before you moved there?
A. Reading, Massachusetts.
Q. When did you move from Reading?
169 A. 1875, I think.
Q. Where to?
A. To Lancaster, where I reside at the present time.

Same objection by counsel for plaintiff on the ground stated heretofore.

Q. What did you move?
A. I moved everything I had in the shape of furniture and everything I had.
Q. Where to?
A. Lancaster, New Hampshire.
Q. Did you move your bed and bedding?
A. I did.
Q. How did you move it?
A. Moved it by the cars.
Q. Where is your furniture now, and bed and bedding?
A. Lancaster, New Hampshire.
Q. Is it in that house owned by your wife?

A. Yes, sir.
Q. Of what State are you a citizen?
A. New Hampshire.

Objected to by counsel for plaintiff on the same ground as stated heretofore.

Q. How long have you been a citizen of New Hampshire?
A. Seven (7) or eight (8) years.

Cross-examination of JOHN H. ADDEN, dated April 12, 1883, "pages 25 & 26:"

170 (Same objection.)

Q. Of what State are you an inhabitant?
A. New Hampshire.

(Same objection.)

Q. How long have you been an inhabitant of New Hampshire?
A. Seven (7) or eight (8) years.

Objected to on the same ground stated heretofore.

Q. For the last seven or eight years?
A. Yes, sir.
Q. On March 10th and March 11th, 1882, of what State were you a citizen?

Objected to by counsel for plaintiff on the ground stated heretofore, which I particularly reiterate.

A. Of New Hampshire; my residence was there.
Q. Of what State were you an inhabitant at that time?
A. New Hampshire.

All these questions objected to on the ground stated heretofore.

Q. For the six years last passed, except when you have been attending to business in New Orleans, Massachusetts, and elsewhere, of what State have you been a resident?
A. New Hampshire.

Objected to on the same ground stated heretofore.

Q. Where has most of your time been spent during the last six years?
A. New Orleans.

Cross-examination of JOHN H. ADDEN, April 12, 1883, "pages 27–29:"

171 Q. Doing what?
A. Taking care of John H. Adden's business.
Q. Where has your home been during all that time?
A. New Hampshire.

Objected to upon the same ground stated heretofore.

Q. What part of New Hampshire?

A. Lancaster, New Hampshire.

Objected to on the same ground stated heretofore.

Q. Was George W. Weber ever in your employ?
A. Never; no, sir.
Q. In whose employ has he been recently?
A. John H. Adden's.
Q. Were you ever a partner of John H. Adden?
A. Never was; no, sir.
Q. State whether or not the notes and evidences of debt you hold against John H. Adden were given in good faith and for a valid consideration and are still due and owing from him to you, or whether they were gotten up between you and him for the purpose of defrauding, delaying, and hindering the creditors of John H. Adden.
A. They were given in good faith and not for the purpose of hindering the creditors or any one else; it was an honest debt.
Q. What was the consideration of those notes, Mr. Adden?
A. For interest, salary, and money.
Q. Any stock?
A. And stock that I let him have.
Q. When did you leave this city last?
172 A. Last May.
Q. Where did you go?
A. To Mobile.
Q. Where did you go to from there?
A. I went home to New Hampshire.

Objected to on the same ground as stated heretofore.

Q. Is there any agreement or understanding between you and any of the creditors of John H. Adden that you will share with them, in the event of your success in your suits in New Orleans?
A. None whatever.

Redirect examination of JOHN ADDEN, April 12th, 1883, "page 57:"

Q. Then it was otherwise agreed to?
A. Yes, sir.
Q. Did they pay your household expenses, too, besides your salary?
A. No, sir; they did not at Reading.
Q. Now, give us some idea of your household expenses.
A. Well, I say five hundred dollars ($500.00) a year, although I don't think it cost me that.
Q. Where is your wife?
A. At Concord, New Hampshire.
Q. What is she doing there?
173 A. She is in the insane asylum.
Q. You can't give any further explanation of the origin and nature of your claim against John H. Adden than you have already given me?

A. No, sir.

Petition of John Adden to remove suit, with affidavit annexed; copied at page 77 of this transcript.

174 *Motion to Remand Refused.*

Extract from the Minute Book, November Term, 1883.

NEW ORLEANS, MONDAY, *November 26th*, 1883.

Court met pursuant to adjournment.
Present: Hon. Edward C. Billings, district judge.

J. M. B. REYNOLDS, Ass'ee,
vs.
JOHN ADDEN *et als.*
No. 10405.

This cause came on to be heard on the motion of the plaintiff to remand the same to the civil district court of the parish of Orleans and was argued by counsel.

On consideration whereof it is ordered that the said motion be refused and that the cause do proceed in this court according to law.

Motion to Fix Rule to Docket on Equity Side. Entered & Filed November 28, 1883.

Circuit Court of the United States, Eastern District of Louisiana.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.*
No. 10405.

175 On motion of C. S. Kellogg and E. N. Whittemore, att'ys for the defendant, John Adden, it is ordered by the court that the rule herein taken by said defendant to put this cause on the equity side of the court be fixed for trial for Wednesday, December 5th, 1883, at 11 o'clock a. m., and that plaintiff be notified.

Order. Cause Docketed on Equity Side.

Extract from the Minute Book, November Term, 1883.

NEW ORLEANS, WEDNESDAY, *December 5th*, 1883.

Court met pursuant to adjournment.
Present: Hon. Edward C. Billings, district judge.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.*
No. 10405.

This cause came on to be heard on the motion of the defendant, John Adden, to place this cause on the equity side of the court;

whereupon, by consent of the counsel for the parties respectively, the said motion was then and there submitted to the court without argument.

On consideration whereof it was ordered that the said motion be granted and the cause placed on the equity side of this court.

176 *Motion to Fix Cause.*

Extract from Minutes.

NEW ORLEANS, MONDAY, *May 10th*, 1886.

Court met pursuant to adjournment.
Present: Hon. Edward C. Billings, district judge.

J. M. B. REYNOLDS
vs.
JOHN ADDEN *et als.*
No. 10405.

On motion of C. S. Kellogg and E. N. Whittemore, solicitors for the defendant, John Adden, it is ordered by the court that the above cause be assigned for trial on Monday, May 17th, 1886, at 10 a. m.

Continuance.

Extract from the Minute Book, April Term, 1886.

NEW ORLEANS, MONDAY, *May* 17, 1886.

Court met pursuant to adjournment.
Present: Hon. Edward C. Billings, district judge.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et al.*
No. 10405.

177 By consent of counsel for the parties in interest, it is ordered that this cause be continued till the 24th day of May, 1886, at 10 a. m.

Continuance.

Extract from the Minute Book, April Term, 1886.

NEW ORLEANS, MONDAY, *May 24th*, 1886.

Court met pursuant to adjournment.
Present: Edward C. Billings, district judge.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et al.*
No. 10405.

On motion of counsel for parties in interest, it is ordered that this cause, set down for trial this day, be continued until Thursday, the 27th instant, at 10 o'clock a. m.

Continuance.

Extract from the Minute Book, April Term, 1886.

178 NEW ORLEANS, THURSDAY, *May 27th*, 1886.

Court met pursuant to adjournment.

Present: Hon. Edward C. Billings, district judge.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.* } No. 10405.

On motion of counsel for the respective parties, it is ordered that this cause be continued until the 3rd proximo, at 10 a. m., for hearing.

Continuance.

Extract from the Minute Book, April Term, 1886.

NEW ORLEANS, THURSDAY, *June* 3, 1886.

Court met pursuant to adjournment.

Present: Hon. Edward C. Billings, district judge.

J. M. B. REYNOLDS, &c.,
vs.
JOHN ADDEN *et al.* } No. 10405.

On motion of E. N. Whittemore & C. S. Kellogg, solicitors for defendants, it is ordered that this cause be continued until
179 Tuesday, the 8th instant, at 10 a. m.

Complainant's Motion to Suppress Evidence. Filed 8 *June*, 1886.

U. S. Circuit Court, Eastern Dist. of La.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.* } No. 10405.

On motion of Blanc & Butler, solicitors for complainant, and on suggesting to the court—

That, as appears from a certified copy of the insolvency proceedings of John H. Adden, No. 1321, insolvent court of Middlesex county, Massachusetts, commenced in said court on the 10th day of March, 1882, and duly filed herein, John Adden became a party to said proceedings by signing as security for $10,000 the bond given by Stillman E. Parker, an assignee of said insolvent estate, in which said bond said John Adden declared under oath that he was then residing in Reading, Massachusetts;

And on further suggesting that, as appears from a certified copy of the insolvency proceedings of Damon, Temple & Co. filed herein, said John Adden was appointed and qualified as assignee of said

insolvent estate, and in the said bonds therein given by him said John Adden declared under oath that he was then of Reading, Massachusetts ;

180 And on further suggesting that by the laws of Massachusetts no security could then have been accepted on an assignee's bond unless he was a resident of said State ;

And on further suggesting that in the petition of said John Adden, filed on the 16th of March, 1882, in suit of John Adden *vs.* John H. Adden, No. 5586 of the docket of the civil district court, parish of Orleans, State of Louisiana, and on the petition of said John Adden, filed in the suit of John Adden *vs.* John H. Adden, No. 5738 of the docket of said civil district court, said John Adden is alleged and sworn to have been at that time a resident of said State of Massachusetts ;

And on further suggesting that by the several judicial admissions and sworn declarations aforesaid John Adden is estopped from introducing any evidence in this cause showing or tending to show that he resided at the date of that insolvency of his son, John H. Adden, *as* at the time of the commencement of the suit, elsewhere than in the State of Massachusetts ;

And on further suggesting the judgment of the Honl. Wm. T. Houston, judge of division B, civil district court, parish of Orleans, on defendant's, John Adden's, exceptions to this suit and on his rule to set aside the injunction herein is *res adjudicata* and a complete bar to his now questioning the binding force and effect of the aforesaid insolvency of his son, J. H. Adden ;

And on further suggesting that the solicitors for John H. Adden have in this suit offered to show by certain parol proofs that at the time of the commencement of these proceedings and for

181 several years prior thereto said John Adden resided in Lancaster, New Hampshire, to all of which evidence the solicitor for complainant at the time of such offer specially objected for the reasons hereinbefore stated :

It is ordered that each and every question propounded to the several witnesses examined on the part of the said John Adden relative to said Adden's residence being elsewhere than in the State of Massachusetts, and every part and portion of the testimony on that subject be suppressed and stricken from the record, particularly all questions propounded to John Adden and all parts of his evidence referred to in the note of evidence filed herein on the 24th of November, 1883 ; also all questions on that subject propounded to Stillman E. Parker, Albert P. Damon, J. H. Adden, Eliab Parker, Ed. F. Adden, Alonzo V. Lynde, W. W. Davis, Chester Jordan, Ossiam Ray, Jonas Powers, Oscar Bontett, —— Cobley, W. Perkins, Clark W. Bancrofft, and any other witnesses examined in behalf of said John Adden, and all testimony and answers of said witnesses, whether given in reply to such questions or otherwise.

Submission of Motion to Suppress.

Extract from the Minute Book, April Term, 1886.

NEW ORLEANS, TUESDAY, *June* 8, 1886.

Court met pursuant to adjournment.
Present: Hon. Edward C. Billings, district judge.

182 J. M. B. REYNOLDS, &c., *vs.* JOHN ADDEN & Co. } No. 10405.

In this cause the complainant, through his solicitors, Blanc & Butler, presented and filed a motion to suppress certain evidence in said motion set forth at length, which motion was submitted to the court.

Defendant's Objections to Stand in Lieu, &c.

Extract from the Minute Book, April Term, 1886.

NEW ORLEANS, TUESDAY, *June 8th*, 1886.

Court met pursuant to adjournment.
Present: Hon. Edward C. Billings, district judge.

J. M. B. REYNOLDS, Assignee, *vs.* JOHN ADDEN & Co. } No. 10405.

The objections made by the defendant, John Adden, to the evidence of complainant are to stand in lieu of a motion to suppress such evidence.

183 *Submission of Cause.*

Extract from the Minute Book, April Term, 1886.

NEW ORLEANS, TUESDAY, *June 8th*, 1886.

Court met pursuant to adjournment.
Present: Hon. Edward C. Billings, district judge.

J. M. B. REYNOLDS, Assignee, *vs.* JOHN ADDEN *et als.*
E. & A. H. BATCHELLER & Co. *vs.* JOHN ADDEN *et als.* } Nos. 10405 & 10406.

These causes came on this day for final hearing, the said causes being taken up together by consent of counsel for the respective parties, upon the complainants' bills, the answers, and proofs, the complainants offering the following evidence, viz:

1884.
April 23.—Letters from Reynolds to Parker, marked Exhibits A & B, pp. 23, 24, & 25 of transcript in suit No. 10405.
Copy of record in insolvency proceeding of John H. Adden, being Doc. D, and found in transcript, pp. 29 to 42, inclusive.
Duplicate schedule of property surrendered by said Adden, together with a list of creditors to be produced.
184 The record in suit John Adden *vs.* John H. Adden, No. 5586, C. D. C't.
The written instructions of John Adden's attorneys in said suit, directing sheriff what to seize, designated as A, B, & C.
The record 5738, C. D. C't, Jno. Adden *vs.* John H. Adden.
The petition, affidavit, and bond for injunction herein, filed May 10, '82; the rule *nisi* and order and services on same; the exception to this suit, the rule to dissolve; the judgments on rule and exception and the opinion of Judge Houston, all in the transcript.
The testimony of Alf. H. Batcheller, Francis Batcheller, R. W. Emerson, Jno. Walker, and Francis Emory, taken under commission.

1884.
April 23.—The testimony of J. M. B. Reynolds, taken this day before E. R. Hunt, U. S. commissioner.
The agreement that testimony taken may be used in both suits.
May 1.—The agreement to use testimony taken this day in both suits.
The testimony of Mrs. Mary Weber, 2–12.
" " " Henry Weber, 12–27.
" " " J. M. B. Reynolds, 27–31.
" " " Thos. Griffin, 31–41.
" " " Thos. Bell, 41–49.
" " " Chas. Stock, 49–64.
" " " Henry Marks, 64–74.
Statutes of Mass. of 1882, particularly chap. 157, sec. 1, pp. 879, 880, and sections 43, 44, 446, p. 886; also chap. 143, sec. 1, p. 801.
185 May 8th.—Testimony of F. M. Boze, 1–4.
" " J. G. Rathe, 4–17.
" " Thos. H. Muller, 17–21.
" " J. M. B. Reynolds, correcting stenographer's notes.
April 23.—In connection with testimony of J. M. B. Reynolds, the sheriff's inventory of contents of safe at 58 Custom-House street identified as correct, pp. 44–45.
The test'y & evidence taken in case 10405, offered in case 10406 by complainants, p. 104.

1886.

May —.—Testimony of E. S. Wurtzburger.

" " " William Walsh and letter of instructions as to seizure, and what was seized in Adden suits.

" Additional copy of schedules on insolvency of J. H. Adden, showing John Adden as of Reading, Mass.

" Extracts from testimony of John Adden, as per note of evidence.

" Copy of John Adden's appointment as assignee of the insolvent estate of Damon Temple & Co., his acceptance and bond, in all of which he represents himself as of Reading, Mass.

" Testimony of Ambrose Eastman and affidavits of said Eastman and W. N. Mason.

The subpœna addressed to Geo. W. Weber, the return of personal service thereon, the (2) attachments issued for the arrest of Geo. W. Weber to compel his attend-
186 ance as a witness for complainants, and the return thereon.

And the defendant, John Adden, offering the following evidence, viz:

1st. The testimony and evidence taken on behalf of John Adden, defendant, before E. R. Hunt, U. S. commissioner, on May 1st, 1884, being the depositions of Eliah Perkins, Albert P. Damon, Waldo E. Perkins, Isaac M. Clark, Edward F. Parker, and Wendell Bankrofft, taken under commissions dated April 5th, 1883.

The depositions of Chester B. Jordan, Evantors V. Cobeyh, Jonas Powers, Edward F. Adden, Oscar F. Bothill, Ossiam Ray, taken under commission dated April 5, 1883.

The depositions of John H. Adden, A. V. Lynde, William M. Davis, Albert P. Damon, Eliah Poutter, and S. E. Parker, taken under commissions dated May 1st, 1883.

The decree on the motion to remand and the certificate of the clerk of this court, dated November 26th, 1883, and filed in the State court November 29th, 1883, the eight notes annexed to the commission, dated May 1st, 1883, and numbered 1, 2, 3, 4, 5, 6, 7, & 8, and the three notes annexed to the same commission and marked A, B, & C.

The depositions of Stillman E. Parker, Albert P. Damon, J. H. Adden, Edward F. Adden, Alonzo V. Lynde, Eliah Parker, taken under commission dated January 5th, 1886.

The affidavit of C. S. Kellogg.

Section 6 of chapter 76, page 425, of the Revised Statutes
187 of Massachusetts, published in 1882, and the original notes to said section and the statutes referred to in said notes; also a section on the same subject-matter in a prior edition of the statutes of Massachusetts, a copy to be produced, which has been produced and is in the record.

The note of evidence filed herein on the 24th day of November, 1883, the same evidence as therein specified, which evidence was introduced on the motion to remand.

And after argument by counsel for the parties respectively the cause was submitted and the court took time to consider.

188 *Complainant's Offerings.*

Letters from Reynolds to Parker, marked Exhibits A & B. See page 14 of this transcript.

Copy of record in insolvency proceeding of John H. Adden, being Doc. D. See page 18 of this transcript.

189 Duplicate schedule of property surrendered by said Adden, together with a list of creditors. See page 352 of this transcript.

The Record in Suit John Adden v. *John H. Adden, No.* 5586, *C. D. C't.*

Petition. Filed March 16, 1882.

To the honorable the civil district court for the parish of Orleans:

The petition of John Adden, residing in the State of Massachusetts, respectfully represents that John H. Adden, who resides in the State of Massachusetts, is justly and truly indebted to petitioner in the full sum of twenty thousand dollars, with five per cent. interest from judicial demand, for this, to wit, that heretofore petitioner loaned, advanced, paid, laid out, and expended to and for the use of said John H. Adden said sum of twenty thousand dollars, and took and received from said John H. Adden promissory notes made by said John H. Adden for said sum of twenty thousand —, of
190 which promissory notes petitioner is the holder and owner, and which promissory notes are now due and owing and will in due course be herewith filed as a part of this petition.

Petitioner further represents that said sum of twenty thousand dollars has not been paid, nor any part thereof, and is now wholly due and owing by said John Adden to petitioner, although amicable demand for payment has been made.

Petitioner further represents that said John H. Adden resides permanently out of the State of Louisiana.

Petitioner further represents that said John H. Adden has property, rights, and credits within the State of Louisiana and within the jurisdiction of this court.

Petitioner further represents that said John H. Adden is absent from the State of Louisiana and has an agent in said State of Louisiana, living in the city of New Orleans, and named George W. Weber, upon whom citation can be served.

Wherefore petitioner prays that, in consideration of the premises, the bond and affidavit annexed, a writ of attachment do issue, and that said property, rights, and credits be seized thereunder, and that said John H. Adden be cited through his said agent, George W. Weber, to appear and answer this petition, and, after due proceedings had, that said John H. Adden be condemned to pay petitioner

the aforesaid sum of twenty thousand dollars, with five per cent. per annum interest thereon from judicial command and with privilege on the property attached; and petitioner prays for all
191 costs of suit and for general relief.

(Signed) C. S. KELLOGG AND
E. N. WHITTEMORE, *Atty's.*

Chauncey S. Kellogg, being duly sworn, doth depose and say that he is one of the attorneys-at-law of the foregoing petitioner, John Adden; that said John Adden resides in the State of Massachusetts and is not now in the State of Louisiana to make this affidavit in person; that all the facts and allegations contained in the foregoing petition are true and correct, and that he makes this affidavit to the best of his knowledge, information, and belief.

(Signed) CHAUNCEY S. KELLOGG.

Sworn to and subscribed before me this 16 March, 1882.
(Signed) FRANK WALL, *D'y Cl'k.*

Order.

Let a writ of attachment issue herein as prayed for on petitioner's giving bond, with good and solvent security, in the manner, amount, and form prescribed by law.

New Orleans, M'ch 16, 1882.

(Signed) N. H. RIGHTOR, *Judge.*

Bond for Writs of Attachment and Sequestration.

Know all men by these presents that we, John Adden, as principal, and Joseph B. Hubbard, as surety, of the city of New
192 Orleans and State of Louisiana, are held and firmly bound unto James T. Clark, clerk of the civil district court for the parish of Orleans, and his successors in said office in the sum of twenty thousand and five hundred dollars, lawful money of the United States of America; for which payment, well and truly to be made to the said clerk or his sucescsors, we bind ourselves *in solido*, and each of our executors, administrators, heirs, and assigns, firmly by these presents.

Sealed with our seals and dated the 16th day of March, 1882.

Whereas the said John Adden has this day presented a petition to the civil district court for the parish of Orleans praying a writ of attachment to issue against the property of John H. Adden in the suit of John Adden against John H. Adden:

Now, the condition of the above obligation is that we, the above-bound principal and surety, will well and truly pay to the said clerk or his successors in office, for the benefit of any and all persons interested in said suit, all such damages as may be recovered against us

in case it should be decided that the said writ was wrongfully obtained.

Signed, sealed, and delivered in the presence of—

(Signed) JOHN ADDEN, [SEAL.]
By his attorneys-at-law, C. S. KELLOGG AND E. N. WHITTEMORE.
(Signed) JOS. B. HUBBARD. [SEAL.]

Writ of attachment issued 16th March, 1882, copied at page 202 of this transcript, marked "A."

193 *Citation. Issued March* 16, 1882.

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans, in the City of New Orleans.

JOHN ADDEN *versus* JOHN H. ADDEN. } No. 5586.

Mr. John H. Adden, thro' George W. Weber, his agent, New Orleans:

You are hereby summoned to comply with the demand contained in the petition, of which a copy accompanies this citation, or deliver your answer to the same in the office of the clerk of the civil district court for the parish of Orleans within ten day after the service hereof.

Witness the Honorables A. L. Tissot, W. T. Houston, F. A. Monroe, N. H. Rightor, Henry L. Lazarus, judges of the said court, this 16th day of March, in the year of our Lord 1882.

(Signed) ALEX. T. DONOVAN,
[SEAL.] *Deputy Clerk.*

194 *Sheriff's Return.*

Received M'ch 16th, 1882, and on the 17th day of the same month and year I served a copy of the within citation and accompanying petition on John H. Adden, defendant herein, through George N. Weber, his agent, in person.

Ret. same day.

(Signed) P. A. McINTYRE,
Deputy Sheriff.

Sheriff's fees, $1.50.

Judgment.

Civil Dist. Court, Parish of Orleans.

JOHN ADDEN
vs.
JOHN H. ADDEN. } No. 5586.

On motion of C. S. Kellogg, Esq., and E. N. Whittemore, Esq., of counsel for plaintiff, and on producing to the court due proof in support of the plaintiff's claim, and the law and evidence being in his favor—

It is ordered, adjudged, and decreed that the judgment by default herein entered on the 29th day of March, 1882, be now confirmed and made final, and, accordingly, that there be judg-
195 ment in favor of the plaintiff, John Adden, and against the defendant, John H. Adden, for the sum of nineteen thousand and fifty-two $\frac{64}{100}$ dollars ($19,052.64), with legal interest thereon from the 17th day of March, 1882, until paid, and costs of suit, with privilege on the property attached herein.

Judgment rendered April 3rd, 1882, and signed April 10th, 1882.

(Signed) W. T. HOUSTON, *Judge.*

Fieri Facias. Issued 25th April, 1882.

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

JOHN ADDEN
versus
JOHN H. ADDEN. } No. 5586.

State of Louisiana to the sheriff of the parish of Orleans, Greeting:

We command you that by seizure and sale of the property,
196 real and personal, rights and credits, of defendant, John H. Adden, in the manner prescribed by law, you cause to be made the sum of nineteen thousand and fifty-two $\frac{62}{100}$ ($19,052.62) dollars, with legal interest from the 17th day of March, 1882, with privilege on the property attached herein, and also the sum of thirteen $\frac{70}{100}$ dollars, costs, as well as your own costs and charges, to satisfy a judgment rendered against the said defendant, John H. Adden, in our civil district court for the parish of Orleans, 3rd day of April, 1882, in favor of plaintiff, John Adden, and how you shall have executed this writ you make return to our said court (within seventy days) according to law.

Witness the Honorables A. L. Tissot, W. T. Houston, F.
[SEAL.] A. Monroe, N. H. Rightor, Henry L. Lazarus, judges of our said court, this 25th day of April, in the year of our Lord 1882.

(Signed) ALEX. T. DONOVAN,
Deputy Clerk.

Sheriff's Return.

197 Received April 25th, 1882, and on April 25, 1882, levied this writ on the property described in the within-annexed notice of seizure, and which said notice of seizure, with the return on the reverse of the same, is herewith made part of this return, and, no payment being made within the legal —, said property was advertised for sale, &c., when, on May the 3rd, 1882, said sale and further proceedings under this writ were stayed by virtue of a writ of injunction herein issued.

And the delay within which this writ is made returnable having expired before further proceedings were had on said injunction, I make this my return, still maintaining my seizure upon said property, and in the time of returning this writ I requested the clerk of this hon. court to furnish me with a copy of the same, together with my proceedings thereon endorsed according to law. No other property found after due demands of plaintiff's attorneys and defendant herein. Charges still due.

Sh'f's fee, $2.

(Signed) ERNEST RICKER, *D'y S.*

Returned July 3, 1882.

Notice of Seizure.

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

198 JOHN ADDEN *versus* JOHN H. ADDEN. } No. 5586.

SHERIFF'S OFFICE, PARISH OF ORLEANS,
NEW ORLEANS, *April 25th*, 1882..

To John H. Adden, through Geo. W. Weber, agent:

Take notice that I have seized and in three days from the service hereof shall proceed to advertise and sell according to law the goods and merchandize in the store of defendant, No. 58 Custom-House street, as per inventory on file in my office, to pay and satisfy the writ issued in this case, say the sum of $19,052.62, with interest and costs, unless the same is immediately paid.

(Signed) WM. J. GRADY,
Deputy Sheriff.

Return.

And on April 25th, 1882, I served a copy of the within notice of seizure on John H. Adden, through Geo. W. Weber, agent, in person.

(Signed) JOHN CHAWK,
Deputy Sheriff.

199 The written instructions of John Adden's attorneys in said suit directing sheriff what to seize, designated as A, B, & C, offered by plaintiff April 23, 1884:

Instructions, Marked Exhibit "B."

NEW ORLEANS, *March 16th*, 1882.

Civil Sheriff, Parish of Orleans:

In the case of John Adden *vs.* John H. Adden, No. 5586, civil district court, the sheriff will attach the goods and merchandize in the store of defendant, No. 58 Custom-House St.; attach also the commercial books, papers, notes, and assets, safe and contents of def'd't, but not remove same.

(Sig'd) C. S. KELLOGG AND
E. N. WHITTEMORE, *Att'ys.*

GEO. W. WEBER,
Ag't of Def'd't.

Ne varietur.
[SEAL.] (Signed) M. C. SONAIT,
Commissioner for the Commonwealth of Massachusetts.

Exhibit "B."

200 *Inventory—Contents of Safe at No. 58 Custom-House St.*

EXHIBIT "C."

Ne varietur.
[SEAL.] (Signed) M. C. SONIAT,
Commissioner for the Commonwealth of Massachusetts.

1. Envelope—Old papers.
2. " Accounts, Bernard Hufft.
3. " Receipts, legal charges for various cases.
4. " Account sales, Vincent and Co.
5. " Current accounts, J. H. Adden.
6. " Statement " John Adden, "
7. " (1) one life policy on Lawrence E. Meehan, J. H. Adden, assignee.
   Several fire policies on the Manhatten Ins. Co. of New York.
8. One fire policy on Western Ins. Co., favor J. H. Adden; expires — 14th, 1880.
9. Statements and accounts with Mrs. Sarah Mayer.
10. Letters Charles Emerson to John Adden.
11. Receipts, R. G. Dunn and Co., mercantile agency.
12. Bankrupt notice to J. Adden from U. S. court; Isaac Donovan, bankruptcy.
13. Ac. cotton sales, 1875 & 1876, to John H. Adden from H. C. Newman.

14. Statement of sale of boots & shoes, '78, W. H. Langdon to John Adden.
15. Cotton-sales bills for 1876 & 1871.
201 16. Receipts of sales from F. P. Martinez & Vincent & Co.
17. Miscellaneous papers.
18. Old papers.
19. Taxes and licenses receipts, '78 to 1881, inclusive.
20. Old papers.
21. Assessment list of 1882.
22. 3 protests—2 settled, 1 paid.
23. 1 package, agreement with Henry Marks.
24. 1 " sale receipts of H. and N. Samory.
25. 1 " list sales of boots & shoes for John Adden.
26. Envelopes, judgment favor John Adden against Sam. Bhun.
27. Notice insolvency of P. Laff from U. S. court.
28. Stock sheets.
29. Statement current account with John H. Adden.
30. Judgment favor John Adden against H. Jacobs.
31. " " " " M. Doran.
32. Deed of Sara J. Taylor to John H. Adden, 1873.
33. Deed of trust transferred by A. Gluckman.
34. Copy of agreement.
35. 1 fire policy on furniture in favor Mitchell, '77.
36. 1 order and credit book.
37. Dissolution of partnership, John Adden.
38. 1 book, State National Bank ac. with John Lane.
39. Stock sheets or book, '77.
40. 1 one package of old papers.
202 41. (1) one invoice book.
42. 1 " journal " A, J. H. A. & Co.
43. 1 " " " C, J. H. A.
44. 1 " " " " & Co.
45. 1 " ledger " A, "
46. 1 " " " A, " & Co.
47. 1 " cash " " "
48. 1 " " " " " & Co.
49. 1 " invoice " " " " "
50. 1 " " " " "
51. 1 " book promissory notes (old).
52. 1 " " receipts, "
53. 1 " " insurance expiration.
54. (2) two " State National Bank ac. with John H. Adden.
55. (1) one book policies.
56. (2) two one draft and 1 check book.

New Orleans, Oct. —, 1882.

Writ of Attachment, Marked Exhibit "A."

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

203 The State of Louisiana to the sheriff of the parish of Orleans, Greeting:

Whereas due proof has been made before the civil district court for the parish of Orleans by John Adden that John H. Adden is justly indebted to him in the sum of twenty thousand dollars, with 5% interest from judicial demand, and that the said John H. Adden resides permanently out of the State of Louisiana:

Now, therefore, you are commanded, in the name of the State of Louisiana and of the civil district court for the parish of Orleans, to seize and attach according to law and to take into your possession the goods and chattels, lands and tenements, rights and moneys, effects and credits of the said John H. Adden, if any you find in said parish, to the amount of what will suffice to discharge the said debt and costs of suit, and that you give notice of this proceeding by leaving a copy thereof at the last place of abode of the said defendant, if in said parish, and causing a copy thereof to be affixed at the door of the parish church of said parish, and make return of this writ, and endorse thereon the manner in which you have executed it, before our court according to law.

Clerk's office, 16th day of March, 1882.

(S'g'd) ALEX. T. DONOVAN,
Deputy Clerk.

Endorsed: *Ne varietur.* [Seal.] (Signed) M. C. Soniat, commissioner for the Commonwealth of Massachusetts.

204 *Sheriff's Notice of Seizure.*

STATE OF LOUISIANA:

In the Civil District Court for the Parish of Orleans.

JOHN ADDEN
versus } No. 5586.
JOHN H. ADDEN.

CIVIL SHERIFF'S OFFICE, PARISH OF ORLEANS,
NEW ORLEANS, *March 16th*, 1882.

To John H. Adden, through Geo. W. Weber, agent:

Please to take notice that by virtue of a writ of attachment issued in the above-mentioned suit I have seized and taken into my possession the goods and merchandise in the store of defendant, No. 58 Custom-House street; also the commercial books, papers, notes,

assets, safe and contents contained in the said store, No. 58 Custom-House street, in this city.

(Signed) WM. J. GRADY,
Deputy Sheriff.

Ne varietur.
[SEAL.] (Signed) M. C. SONIAT,
Commissioner for the Commonwealth of Mass.

Sheriff's Return.

And on March 16, '82, I served a copy of within notice of seizure — John W. Adden, defendant herein, through Geo. W. Weber, ag't in person.

(S'g'd) B. McKERNAN, *D'y Sh'ff.*

205 *The Record* 5738, *C. D. C't, Jno. Adden vs. John H. Adden.*

Petition. Filed April 4, 1882.

To the honorable the civil district court for the parish of Orleans:

The petition of John Adden, residing in the State of Massachusetts, respectfully represents that John H. Adden, residing in said State, is justly and truly indebted to petitioner in the full sum of sixty-two hundred and eighty-three & $\frac{10}{100}$ dollars, with six per cent. per annum interest on twenty-one hundred dollars thereof from January 8th, 1882, like interest on two thousand and eighty-three & $\frac{10}{100}$ dollars thereof from January 25th, 1881, and like interest on twenty-one hundred dollars thereof from February 4th, 1881, for this, to wit, that petitioner is the holder and owner of three certain promissory notes made by said John H. Adden, payable to his own order and by him endorsed, one of said notes being dated at Boston on July 5th, 1878, payable six months after date, and being for the sum of twenty-one hundred dollars, interest on the same having been paid to January 8th, 1882; another of said notes being dated at Boston on July 22nd, 1878, payable six months after date, and being for the sum of two thousand and eighty-three & $\frac{10}{100}$ dollars, interest on the same having been paid to January 25th, 1881, and another of said notes being dated at Boston on August 1st,
206 1878, payable six months after date, and being for the sum of twenty-one hundred dollars, interest on the same having been paid to February 4th, 1881, all of said notes being now due and owing and being for value received, as the whole will more fully appear by said notes, which are hereto annexed and made part of this petition and marked, respectively, A, B, and C.

Petitioner further represents that said sum of sixty-two hundred and eighty-three & $\frac{10}{100}$ dollars has not been paid, nor any part thereof, and is now wholly due and owing by said John H. Adden to petitioner, with interest as aforesaid, and that amicable demand for payment has been made.

Petitioner further represents that said John H Adden resides permanently out of the State of Louisiana.

Petitioner further represents that said John H. Adden has property, rights, and credit within the jurisdiction of this honorable court.

Wherefore petitioner prays that, in consideration of the premises, the bond, and affidavit annexed, a writ of attachment do issue, and that said property, rights, and credits be seized thereunder, and that said John H. Adden be cited to appear and answer this petition, and after due proceedings had that he be condemned to pay petitioner the aforesaid sum of sixty-two hundred and eighty-three & $\frac{10}{100}$ dollars, with six per cent. per annum interest on twenty-one hundred dollars thereof from January 8th, 1882, until paid; like interest on two thousand and eighty-three & $\frac{10}{100}$ dollars thereof from January 25th, 1881, until paid, and like interest on twenty-one hundred dollars thereof from February 4th, 1881, until
207 paid, and with privileges on the property attached; and petitioner prays for all costs of suit and for general relief.

(Signed) C. S. KELLOGG AND
E. N. WHITTEMORE, *Att'ys.*

Chauncey S. Kellogg, being duly sworn, doth depose and say that he is one of the attorneys-at-law of the foregoing petitioner, John Adden; that said John Adden resides in the State of Massachusetts, and is not now in the State of Louisiana to make this affidavit in person; that all the facts and allegations contained in the foregoing petition are true and correct, and that he makes this affidavit to the best of his knowledge, information, and belief.

(Signed) C. S. KELLOGG.

Sworn to and subscribed before me this 4th Ap'l, 1882.

(Signed) H. MIESTER, *D'y Cl'k.*

Order.

Let a writ of attachment issue, as herein prayed for and according to law, upon plaintiff furnishing bond with good and solvent surety in the amount, manner, and form prescribed by law.

New Orleans, April 4th, 1882.

(Signed) N. H. RIGHTOR, *Judge.*

208 *Bond for Writ of Attachment. Filed April* 4, 1882.

Bond for writs of attachment and sequestration.

Know all men by these presents that we, John Adden, of the State of Massachusetts, as principal, and Joseph B. Hubbard, as surety, of the city of New Orleans and State of Louisiana, are held and firmly bound unto James T. Clark, clerk of the civil district court for the parish of Orleans, and his successors in said office, in the sum of sixty-seven hundred dollars, lawful money of the United States of America; for which payment, well and truly to be made to the said clerk or his successors, we bind ourselves *in solido* and each of our executors, administrators, heirs, and assigns firmly by these presents.

Sealed with our seals and dated the 4th day of April, 1882.

Whereas the said John Adden has this day presented a petition to the civil district court for the parish of Orleans praying a writ of attachment to issue in the suit of John Adden against John H. Adden:

Now, the condition of the above obligation is that we, the above-bound principal and surety, will well and truly pay to the said clerk or his successors in office, for the benefit of any and all persons interested in said suit, all such damages as may be recovered
209 against us in case it should be decided that the said writ was wrongfully obtained.

Signed, sealed, and delivered in the presence of—

(Signed) JOHN ADDEN,
By C. S. KELLOGG, *Att.*
E. N. WHITTEMORE.

(Signed) JOS. B. HUBBARD.

Writ of Attachment. Issued 4th April, 1882.

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

The State of Louisiana to the sheriff of the parish of Orleans, Greeting:

Whereas due proof has been made before the civil district court for the parish of Orleans by John Adden that John H. Adden is justly indebted to him in the sum of sixty-two hundred and eighty-three $\frac{10}{100}$ dollars, with interest, as prayed for, and that the said John H. Adden resides permanently out of the State of Louisiana:

Now, therefore, you are commanded, in the name of the State of Louisiana and of the civil district court for the parish of Orleans, to seize and attach according to law and to take into your possession the goods and chattels, lands and tenements, rights and moneys,
210 effects and credits of the said John H. Adden, if any you find in said parish, to the amount of what will suffice to discharge the said debt and costs of suit, and that you give notice of this proceeding by leaving a copy thereof at the last place of abode of the said defendant, if in said parish, and causing a copy thereof to be affixed at the door of the parish church of said parish; and make return of this writ and endorse thereon the manner in which you have executed it before our court according to law.

Clerk's office, 4th day of April, 1882.

[SEAL.] (Signed) J. BRANDAO,
Deputy Clerk.

Sheriff's Return.

Received April 4th, 1882, and on the same day posted copies of the within writ to the door of the church of St. Louis of the parish of Orleans and to that of the room in which this hon. court holds its sittings; also seized the goods and merchandise in the store of de-

fendant, No. 58 Custom-House street; also the commercial books, papers, notes, assets, safe and contents; which seizure I maintain subject to the further order of this hon. court.

(Signed) WM. J. GRADY, *D'y Sh'ff.*

211 Petition, affidavit, and bond for injunction, filed May 10, 1882. See pages 3 to 13 of this transcript.

Rule *nisi* and order and services on same. See pages 13 to 17 of this transcript.

Exception to this suit and the rule to dissolve. See pages 33 to 36 of this transcript.

Judgment on rule and exception and the opinion of Judge Houston. See pages 42–46–53 of this transcript.

212 APRIL 23, 1884.

The Testimony of J. M. B. Reynolds, Taken This Day before E. R. Hunt, U. S. Commissioner.

United States Circuit Court, Eastern District of Louisiana.

J. M. B. REYNOLDS, etc., *vs.* JOHN ADDEN *et als.* } No. 10405.

Testimony taken on behalf of the plaintiff before E. R. Hunt, Esqr., United States commissioner, this 23d day of April, 1884.

And it is agreed by counsel present that this testimony may be used in the case of E. & A. H. Batchelor & Co. against John Adden *et als.*, now pending in this court, being No. 10406 of the docket thereof.

Present: Frank N. Butler, Esqr., for plaintiff; E. N. Whittemore and C. S. Kellogg, Esqrs., for John Adden, one of the above defendants.

Mr. Butler, on behalf of the plaintiff, offers in evidence Exhibit "A," annexed to the petition, being a letter addressed to Stillman E. Parker by the plaintiff, J. M. B. Reynolds, and also Exhibit "B," both found on pages 23, 24, and 25 of the transcript in this case; also document "D," being a copy of transcript of the record
213 of the insolvent court of Middlesex county, Massachusetts, in the matter of the insolvent debtor, J. H. Adden; this offer to include the debtor's petition, the affidavit, the order of court thereon, the warrant to messenger and the return of said officer, the notice to the assignees of their appointment or election and their acceptance, the assignees' bond and the approval by the judge of the same, the certificates of the judge of the court of insolvency and the clerk or register of the said court of Middlesex county, Massachusetts, found in the transcript from pages 29 to 42, inclusive.

Counsel for defendants object to the above offer, as they do not comprise a copy of the entire record of the insolvency proceedings in the case of John H. Adden.

Mr. Butler also offers in evidence a duplicate schedule of the property surrendered in said insolvency proceedings by the said John H. Adden, together with a list of his creditors filed in that matter, to be produced.

Counsel for defendant reserves the same objection to the introduction of the document when produced.

Mr. Butler also offers in evidence the record in the suit of John Adden against John H. Adden, No. 5586 of the civil district court, parish of Orleans, including the petition filed therein, the bond for the writ of attachment, the affidavit and order for the writ of attachment, the writ of attachment and the sheriff's return thereon,
214 and the judgment rendered in said suit on the 3d April, 1882, and signed on the 20th April, 1882; the return of service of said judgment on John H. Adden, through George W. Weber, dated April 10th, 1882; the writ of *fieri facias* issued under said judgment, and the return of the sheriff upon said writ.

Also the written instructions of the plaintiff's attorney in said suit directing the sheriff of the parish of Orleans what property to attach; the sheriff's inventory of the property attached, including a supplemental inventory of said sheriff made of the contents of the safe at No. 58 Custom-House street, all of the latter comprised in papers marked A, B, and "C" in whole.

Also the record in the suit No. 5738 of the civil district court of New Orleans entitled John Adden against John H. Adden, including the petition, affidavit, bond, order, the writ of attachment and the return thereon, the citation and the return upon the same, in said suit.

Also offers the petition, affidavit, and bond for injunction herein filed on the 10th May, 1882, in this suit, the rule *nisi* and order of injunction herein, the service made upon the sheriff and the defendants herein, the exception filed herein to said suit on said petition of May 10th for injunction, the rule to dissolve said injunction, the judgment rendered upon the rule to dissolve upon the exception to said injunction suit, and the opinion of Judge Houston as a part of the record,

Counsel for defendant objects to the opinion of Judge Houston as totally irrelevant.

Mr. Butler also offers in evidence the testimony of Alfred
215 H. Batchelor, Francis Batchelor, R. W. Emerson, John Walker, and Francis Emory, all taken under commission herein; this commission issued in the case of E. & A. H. Batchelor & Co. against John Adden.

J. M. B. REYNOLDS, sworn for the plaintiff, says:

By Mr. BUTLER:

Q. Are you the plaintiff in the suit of J. M. B. Reynolds against John Adden *et als.*, No. 10405 of this court?

A. Yes, sir.

Q. Of what insolvent are you the assignee?

A. John H. Adden, of Reading, Massachusetts.

Q. Are you the Reynolds who qualified as one of the assignees of said insolvent according to the record which has been offered in evidence here this morning?

A. Yes, sir.

Q. Where were you at the time that John H. Adden went into insolvency in Massachusetts? Were you in that State?

A. Yes, sir. I stated yes, for I have no reason to believe I was not.

Q. Do you not know you were there?

A. I cannot say that.

Q. Where were you?

A. I presume I was at home, in Roxbury, Massachusetts.

Q. Where were you at the time of your appointment as one
216 of the assignees?

A. In Massachusetts.

Q. Whereabouts in Massachusetts?

A. In the probate office, in the city of Cambridge.

Q. Where these insolvent proceedings were had?

A. Yes, sir.

Q. What official connection had Stillman E. Parker with that insolvency?

A. He was elected assignee at the time I was.

Q. According to the record, it appears that Mr. Stillman E. Parker had as surety upon his bond as assignee of that insolvency one John Adden. Who is that John Adden? Is he one of the defendants in this suit?

A. Yes, sir.

Q. Where was John Adden at the time this bond was given on behalf of Stillman E. Parker as assignee of said estate?

A. I can only say from the record.

Q. Did you see Mr. John Adden in Cambridge about that time?

A. I saw him the day the assignees were elected—the 23rd March, 1882.

Q. Where did you see him?

A. I saw him at Judge Brooks' court.

Q. Who was Judge Brooks?

A. Judge of the probate and insolvency court of Middlesex county, Massachusetts.

Q. Was he the judge who issued the orders in these pro-
217 ceedings of John H. Adden, insolvent debtor?

A. Yes, sir.

Q. What relation is John Adden to John H. Adden?

A. His father.

Q. What connection had John Adden with the business of John H. Adden?

A. He had charge of his business at New Orleans.

Q. Where was the business of John H. Adden in New Orleans established?

A. At 58 Custom-House street.

Q. About how long had John H. Adden been doing business there?

A. I don't know.

Q. Have you ever been informed by or have you ever heard John Adden say how long he had been conducting the business of John H. Adden at 58 Custom-House street, New Orleans?

A. I don't remember.

Q. Have you ever heard John Adden say whether he had anything to do with the business of John H. Adden at 58 Custom-House street?

A. Yes, sir.

Q. What did John Adden say he had to do with that business?

A. He had the whole charge of that business.

Q. Did he or not state that he had charge of said business for any considerable period of time?

A. For many years.

Q. Who else other than John Adden managed the business
218 of John H. Adden in New Orleans for many years before the failure of John H. Adden?

A. I do not understand that anybody did.

Q. Did you or not understand from John Adden that he had sole charge of that business here?

A. Yes, sir.

Q. When did you come to New Orleans—just after your appointment as assignee of John H. Adden?

A. I reached here on Wednesday, the 12th April, 1882.

Q. For what purpose did you come?

A. To take joint possession of the property here of John H. Adden's estate.

Q. What reason had you to believe that there were any assets of John H. Adden here?

A. There was filed a schedule of the insolvency before Judge Brooks.

Q. Have you a copy of that schedule?

A. I brought one with me. I have not it here in person.

Q. What did you do with it?

A. I gave it to you (Mr. Butler).

Q. Do you know whether or not it was filed in the proceedings in the civil district court?

A. I have reasons to believe so.

Q. But I ask you, Do you know? Did you see it there?

A. I am quite sure I saw you take it there. I think you showed it to me on my examination in Judge Houston's court and
219 asked me to verify it.

Q. Was that a duplicate original schedule?

A. Yes, sir.

Q. Was it signed by John H. Adden?

A. Yes, sir.

Q. And you say it contained a statement of the assets of his estate situated at No. 58 Custom-House street, in this city?

A. It was a schedule of all his assets, both in Massachusetts and here.

Q. When you came here with that schedule what did you attempt

to do with the view of obtaining possession of the assets of John H. Adden?

A. I expected to meet my associate, Mr. Stillman E. Parker, and confer with him on the course to pursue.

Q. Did you meet him?

A. Not on the day I arrived.

Q. What did you first learn when you arrived here with reference to the condition of the assets of John H. Adden in New Orleans?

A. Through the search of counsel I learned there were several writs of attachment in the sheriff's office.

Q. Sued out by whom?

A. Sued out by John Adden.

Q. Upon what were these writs of attachment levied?

A. Upon all the property.

Q. Of whom?

220 A. Of John H. Adden—the merchandize, the safe and its contents, and everything, as I understood it.

Q. Was the sheriff in possession of such assets under said writs?

A. Yes, sir.

Q. Did he have a keeper in the store?

A. Yes, sir.

Q. Do you remember in what suit these goods and properties were seized?

A. Yes, sir.

Q. Was it in the suit No. 5586? Was it the suit in which you intervened and got out that injunction?

A. Yes, sir; it was the suit No. 5586 and 5758.

Q. What did you do when you learned that the goods of John H. Adden were thus seized at the instance of John Adden?

A. I waited until I saw my associate.

Q. Did you see him, and what did you do?

A. I saw him on the Friday succeeding my arrival here.

Q. State what happened between you.

A. I met him in the court-room of Judge Houston's court—the suit was then going on—and we left the court together; we had a conversation in relation to business and the suits.

Mr. Whittemore objects to any statement made by Mr. Parker out of the presence of John Adden.

WITNESS: I asked him to go with me to Mr. Butler's office with reference to what was done.

Q. What I want to know is this, whether you made any
221 effort to get your co-assignee to join you in taking legal steps to have the property of the insolvent, John H. Adden, released from the seizure made by his father, John Adden?

A. I did. I urged him to join me and he said he desired to write North.

Counsel for John Adden objects to any statement made by Mr.

Parker out of the presence of John Adden, and this objection is to cover all future statements made by the witness of that character.

WITNESS: I asked him repeatedly to join me, and he declined as often.

Q. Did he or not do anything, and, if so, what, to aid or assist you in having this property released for the benefit of the creditors of John H. Adden?

A. In no way, shape, or manner.

Q. Who was Stillman E. Parker? What, if any, relation did he bear to the insolvent, John H. Adden, and to his father, John Adden?

A. John Adden married Mr. Parker's sister, and he was uncle to John H. Adden.

Q. Where did Parker stay during the period of your first visit to New Orleans, while he was here? With whom?

A. If I wanted to address him or see him I found him at 58 Custom-House street. Mr. John Adden admitted in my presence that they eat together, roomed together, and slept together.

222 Q. Was John Adden, on the occasion of your addressing Mr. Stillman E. Parker at 58 Custom-House street, to be found there?

A. On the several times I was in the store I found him there.

Q. Did you find Mr. Parker with him?

A. Yes, sir.

Q. What did you do after you had made these fruitless efforts to get Mr. Stillman E. Parker to join you in the proceedings to restore this property to the creditors?

A. At the very outset I notified E. & A. H. Batchelor and W. R. Emerson, large creditors of John H. Adden, residing and doing business in Boston, of the condition of affairs.

Q. What, to your knowledge, was done by them?

Mr. Whittemore objects to any statements made by them to the witness out of the presence of John Adden.

Q. What, to your knowledge, was done by them?

A. I had employed the firm of Lacy & Butler to commence injunction proceedings to restrain the sale of the property advertised for sale at that time.

Q. Was the sale about to take place?

A. Yes, sir; it was advertised.

Q. It would have been sold within a short time if it had not been stopped?

A. I don't know how soon. I saw the advertisement in the paper.

Q. Had you been advised that the property seized under the writ in the hands of the sheriff, at the suit of John Adden against his son, would be sold?

223 A. Yes, sir; and I saw the advertisement in the paper.

Q. After the proceedings had been taken by E. & A. H. Batchelor & Co. and had been pending for some time, did you take any steps?

A. I was advised by counsel that I ought or the assignees ought

to join in the suit for the recovery of the property and to restrain the judgment.

Q. What did you do after obtaining such advice of counsel?

A. I addressed a letter to Mr. Parker asking his co-operation.

Q. Is this Exhibit "A" a copy of the letter which you addressed to Mr. Parker at that time, already offered in evidence?

A. I should say it was.

Q. Did you get any reply to that letter?

A. Yes, sir.

Q. Look at Exhibit "B," already offered, and state whether that is a copy of the reply.

A. I should say that it was.

Q. After Mr. Parker sent you that answer did you see him in person with reference to the matter; and, if so, what did he say?

Counsel for defendants renew their objection to any statements made by Mr. Parker out of the presence of the defendant, John Adden.

A. I engaged Mr. Blanc as my counsel, and on the day that the papers were filed I went to 58 Custom-House street and saw Mr. Parker and told him what I was about doing and asked
224 him to join me, and he declined for the same reasons that he had given me before.

Q. What were the reasons which Mr. Parker gave for not joining you in these efforts to secure the property of the insolvent for the creditors?

Same objection by the counsel of defendant, John Adden.

A. Well, he said that if Batchelor won that, other suits would go on, and that we should not go in; that there was no use in taking any steps whatever.

Q. Did he or not seem disposed to interfere with Mr. John Adden's in Mr. John Adden's seizure and proposed execution against these goods?

Mr. Whittemore objects on the ground that the witness has no right to express his opinion of what seemed to be the disposition of Mr. Parker.

A. No, sir.

Q. What, if anything, did Mr. Stillman E. Parker, your co-assignee, do to save this property for the creditors of John H. Adden?

A. Not one thing.

Q. What brought Mr. Stillman E. Parker here at that time, so far as you know?

Mr. Whittemore objects to any expression of the witness' opinion on that subject.

A. I had my opinion. I know nothing.

Q. During the time that Mr. Parker and Mr. John Adden were

here were they not in the habit of making their headquarters
225 in the store No. 58 Custom-House street?

A. I always met them there together. I believe that they did. My letters met with replies when addressed to 58 Custom-House street, when addressed to Mr. Parker.

Q. Did or not Mr. John Adden ever say in your presence that he was constantly there during that time?

A. Yes, sir; he did.

Q. Did you or not during that time and after the attachment levied by him upon the said goods ever hear John Adden say that he had access to the books and to the contents of the safe at 58 Custom-House street, and that he examined said books from time to time as he wished?

Mr. Whitemore objects to the question as leading.

Q. (Read the question to the witness again.) Did you or not during that time and after the attachment levied by him upon the said goods ever hear John Adden say that he had access to the books and to the contents of the safe at 58 Custom-House street, and that he examined said books from time to time as he wished?

A. I did hear him say so; but at that time, as I understood the question, it referred to whether I said I heard him say so within the time I was here first.

Q. I want to know whether or not you ever heard John Adden say that he had access to the books of John H. Adden and to the safe of John H. Adden at 58 Custom-House street after it had been seized by him.

226 A. Yes, sir.

Q. Who is George W. Weber?

A. The book-keeper of John H. Adden at the time of his failure—that is, the book-keeper in New Orleans.

Q. Did you ever see him at 58 Custom-House street after the seizure?

A. Yes, sir.

Q. While this case was pending before the civil district court did you make any efforts to secure the attendance of George W. Weber and John Adden as witnesses in your behalf in this suit?

A. Yes, sir.

Q. Were you successful in securing their attendance in court?

A. No, sir.

Q. What effort, if any, did you make to find them out when you wished to bring them into court for the purpose of having them examined in connection with this matter?

A. Notice was served on Mr. John Adden in May, 1882, growing out of a commission from the insolvent court in Massachusetts to appear before the commissioner of Massachusetts in this city.

Q. That was connected with the proceedings that were then being carried on in the State of Massachusetts, was it not?

A. I do not understand the scope of your question.

Q. Was it or not?

A. Yes, sir.

227 Q. The question was with reference to this: What effort was made by you, as assignee of John H. Adden, to secure the evidence of John Adden and George W. Weber under that commission?

Mr. Whittemore objects on the ground that it is irrelevant to this case, and on the further ground that the best evidence with regard to the commission proceedings issuing out of the insolvent court of Massachusetts is the production of the commission proceedings themselves.

A. Commissions were issued out of the insolvent court of Massachusetts in this matter of John H. Adden and notices were served upon John Adden and George W. Weber. John Adden did not appear on the day named in May before the commissioner of Massachusetts in this city. My counsel, Mr. Butler, and myself were present at the hour named, and Mr. John Adden failed to come and never did appear under that commission.

Q. Was any effort made by the commissioner through the courts to secure his attendance, to your knowledge; if so, what?

A. The city judge issued a warrant, if that is the term.

Mr. Whittemore objects, as the warrant itself is the best evidence.

WITNESS: And the constable tried to find him, but failed.

Q. How do you know the constable tried to find him?

A. I went with him to the City Hotel.

Q. Why did you go there?

A. Because I knew he eat there.

Q. What occurred?

228 A. He went by 58 Custom-House street and waited awhile and did not find him, and I afterwards learned that he had gone to Mobile.

Mr. Whittemore objects to the last clause of the above, as it is hearsay.

WITNESS: He admitted that in my presence--that he went to Mobile on the morning that the examination was to take place.

Q. Did he state or not in your presence why he went to Mobile that morning?

A. He went by the advice of counsel.

Q. For what purpose?

A. To avoid testifying.

Q. Now, in connection with the evidence of Mr. John Adden and George W. Weber in this suit, please state what efforts were made by you to secure their testimony and what difficulty, if any, you encountered.

A. In relation to the suit pending in this city, notice was served upon Mr. John Adden in March, 1883, at the City Hotel, to appear at Judge Houston's court that afternoon. An officer arrested him and carried him there. Notice was served upon his counsel that he was there, and Judge Houston waited until five o'clock and counsel did not appear, and Mr. John Adden was sent to prison that night,

and the next day John Adden's counsel made objection that the arrest, etc., was illegal. The hearing was had and the court decided that John Adden should answer. Later on, they agreeing
229 that he should be in attendance when wanted, it was agreed that he should be released from prison, and his testimony was taken before Judge Monroe.

Q. What effort did you make to get the testimony of Mr. George W. Weber?

A. He failed to respond. I made inquiries from time to time of various parties I knew that knew him if he was in town to get service upon him, but did not succeed.

Q. Did George W. Weber live in this city?

A. His name is in the directory.

Q. Have you ever been in his house?

A. No, sir.

Q. Have you ever been near his house? In other words, have you ever had anybody go in search of him?

A. I have had parties go in search of him.

Q. With the view of having him brought into court to testify?

A. Yes, sir; but they never could find him.

Q. This case was fixed for trial during the year 1883, to your knowledge, was it not, on a number of occasions?

A. Yes, sir.

Q. Were you present in court?

A. Yes, sir.

Q. Do you know whether or not Mr. George W. Weber had subpœnas issued for his appearance in court on these occasions?

A. Yes, sir; I know there were.

Q. You paid for these subpœnas?

A. Yes, sir.

230 Q. Do you know whether George W. Weber ever came into court?

A. I don't know. It was said he never could be found.

Q. Do you know whether subpœnas — issued to his wife?

A. Yes, sir.

Q. Do you know whether these subpœnas were addressed to her at the place supposed to be George W. Weber's residence, in this city?

A. Yes, sir.

Q. Do you know whether she appeared in court on these several occasions that subpœnas were issued?

A. I believe she did, all the time.

Q. What more could you have done than you did do to secure the attendance of George W. Weber in court on the days that these cases were fixed for trial?

A. I don't know anything that I could have done.

Q. Who is Henry Weber?

A. The father of George W. Weber.

Q. Have you ever seen him?

A. Yes, sir.

Q. Do you know whether or not he was the holder of any note

of $5,000 drawn by John H. Adden and dated about the 1st July, 1876, payable on demand?

A. He was.

Q. Do you know from John Adden whether or not Mr. Henry Weber acquired that note from him?

A. Yes, sir; I heard him say so.

Q. What consideration did Mr. John Adden state in your
231 presence Mr. Henry Weber gave him for that note?

A. Took his note for $500 at thirty days. This has reference to Henry Weber.

Q. Had the whole thirty days elapsed from the time that John Adden said he transferred that note to Henry Weber at the time he made that statement in your presence?

A. Yes, sir.

Q. Did or not John Adden state in your presence that that $500 note had never been paid?

A. I think he said it had not been paid.

Q. Did or not John Adden in your presence state that he never knew Mr. Henry Weber at the time he took his note for $500?

A. He said he never seen him but a few times. He had been in the store occasionally.

Q. Did he state anything about his knowledge of Henry Weber's personal responsibility?

A. I did not hear him state. He stated his occupation; that he was a milkman.

Q. What did he state, if anything, to you with reference to his knowledge of Henry Weber's personal responsibility at the time he took his personal note for $500?

A. He stated nothing to me. I heard him state that he hardly knew Mr. Weber; he had never seen him but a few times.

Q. When did John Adden transfer the note for $5,000 to Henry Weber for the $500 note?

A. He said before he went North in 1882.

Q. Who said?

232 A. Mr. John Adden said that in my presence.

Q. What did Henry Weber state to you about it?

Counsel for defendant object to any statement made by Henry Weber out of the presence of John Adden.

A. Weber said that he gave him the paper on the 23rd or 24th April, 1882. John Adden was not present when that statement was made.

Counsel for defendant therefore object as above.

Q. Was John Adden's statement as to the time that he made this transfer to Weber positive or that he thought it was about that time?

A. It was positive.

Q. This was prior to the surrender of John H. Adden in insolvency?

A. I so understood it.

Q. Just before that time or within a few weeks, I mean.

A. As I recall his statement it was before he went North in 1882.

Q. Do you remember whether or not he stated the time he left here for Massachusetts in 1882?

A. In the latter part of February, 1882, he left for the North.

Q. What would be the effect upon the creditors of the insolvent John H. Adden if the attachment and seizure of the stock and effects in this suit is maintained?

Counsel for defendant object on the grounds, 1st, that it is
233 irrelevant; 2d, that it calls for the opinion of the witness.

A. Nothing; they will get nothing.

Q. Where were the bulk of the assets of John H. Adden situated at the time of the surrender?

A. The merchandize here and the accounts in this city and State and a few adjoining States.

Q. Is that the merchandize and these the accounts both the merchandize and accounts which John Adden has seized in this suit?

A. Yes, sir.

Q. What have become of the books of account and the notes and bills payable and other assets of John H. Adden other than the stock in trade and the safe and its contents, as appears from that inventory marked "B," which has been filed, to your knowledge?

A. I don't know.

Q. Are they at 58 Custom-House street?

A. They were not at the time the inventory was taken, to my knowledge.

Q. You were there?

A. Yes, sir; I was there.

Q. Did you look to see what was there?

A. Yes, sir.

Q. Did you go there with the sheriff for the purpose of assisting him and learning for yourself what assets were on hand?

A. Yes, sir.

234 Q. And nothing, I understand you to say, of all these notes, bills payable, and accounts and the books of account which are referred to in the schedule of assets handed to you when you qualified as assignee were there, except these notes enumerated in that statement and the merchandize in the hands of the sheriff, or could be found?

A. Nothing but what appears by the inventory.

Q. Have you or not ever inquired of John Adden or heard him state what had become of the books of account and bills payable referred to in this schedule of assets?

A. He said he left everything in charge of George W. Weber.

Q. Have you ever inquired of John Adden or heard him state whether he knew where George W. Weber was?

A. He said repeatedly that he did not know, but he has also stated that he has had interviews with him.

Q. When and where since this suit was brought?

A. At Mobile, after he left to avoid the examination; at Bay St. Louis in the early part of 1883.

Q. Where did he say that George W. Weber was when he and John Adden left here to go North in the latter part of May, 1882, or the 1st of June?

A. At one time I heard him say that he had left him in charge, that he had the key of the safe, and at another time that he had gone off on a collecting tour.

Q. He did state that he, John Adden, had left George W. Weber in charge of the assets while he was going North?

235 A. Yes, sir; he did.

Q. Has or had not John Adden stated in your presence that he, at the time of the surrender, was in charge of the assets of John H. Adden in Louisiana?

A. Yes, sir.

Q. Has or has not John Adden stated in your presence that after that time, when he went away from New Orleans, that he left George W. Weber in charge of these assets?

A. Yes, sir; I heard him state so.

Q. What assets do you refer to, the assets that were in the possession of the sheriff or other assets that were not in his possession?

A. Well, he stated he left the key of the safe; I suppose that covered all the books and books of account that were nominal in the sheriff's hands.

Q. Have you not ever heard John Adden say where the books of account of John H. Adden and the notes and bills payable of John H. Adden were kept during the early part of 1882 after the seizure was levied upon the stock at 58 Custom-House street?

A. I understood him to say they were kept in the safe.

Q. Who had the key of the safe according to John Adden's statement at that time?

A. He has stated once in my presence that George W. Weber was the only one had it. He said that he also had it and gave it to Mr. Chris. Stock, a clerk in the store.

236 Q. Where were the books of account and these bills and notes kept during that period according to John Adden's statement?

A. In the safe at 58 Custom-House street.

Q. When the sheriff opened the safe at 58 Custom-House street did he have the key of the safe?

A. No, sir.

Q. How was it opened?

A. They got a blacksmith to drill it open.

Q. Was it locked when the blacksmith went there to drill it open?

A. Yes, sir.

Q. When it was broken open by the blacksmith was anything else found in the safe except that which is referred to in that inventory?

A. No, sir; not to my knowledge.

Q. You were there?

A. I was present.

Q. You saw everything that was taken out of the safe?
A. I have no doubt that I did.
Q. You were there to see it?
A. Yes, sir; I was there to see it, and I suppose I saw everything taken out.
Q. Where were the books of account? Were there any about the store as far as you could see at that time?
A. No, sir; there was nothing there.
Q. I mean the books of account, the ledger, cash book, etc.?
A. No, sir; nothing but what was in the safe.
237 Q. Have you any corrections now to make in the testimony you have here given?
A. I would like to get at the question which I thought I misapprehended.

Cross-examined by Mr. WHITTEMORE:

Q. When did you arrive in this city after the insolvency of John H. Adden?
A. On Wednesday, April 12, 1882.
Q. Where did you go when you first arrived here?
A. To the St. Charles Hotel.
Q. When did you first consult counsel after you arrived here?
A. I consulted them, I think, the next morning.
Q. On the 13th?
A. Yes, sir.
Q. Whom did you consult?
A. I consulted Mr. Butler.
Q. How came you to go to Mr. Butler?
A. I went to Marqueze & Co. at the store and I told Mr. Bonnecaize that I wanted to see counsel, and he took me to Mr. Butler.
Q. Why did you think you would need counsel?
A. I thought the assignee would need counsel.
Q. Why did you think so—that you would need counsel?
A. I often acted as assignee, and I did need counsel.
Q. What did you consult Mr. Butler about on the 13th April?
238 A. There was a suit of E. A. Smith & Co. pending that was an attachment suit. I had telegraphed from Boston here to learn when it would come up and had shown the reply to my associate and knew it was to come up on Friday, the 14th of April, and I asked Mr. Butler to be present.
Q. Was that the only thing you consulted Mr. Butler about on the 13th?
A. I talked about general business and said to him that I expected my associate here, and that I did not wish to engage any counsel until my associate came, and if he did not come that then I would want his services.
Q. Did you talk to Mr. Butler on that day of any suit than Smith's?
A. No, sir; I knew of no other until he found the records in the sheriff's office.

Q. Were you present at the meeting of John H. Adden's creditors in Massachusetts on the 23rd March, 1882?

A. Yes, sir.

Q. Did not Smith & Co. have the stock of John H. Adden under seizure at the time you went to see Mr. Butler?

A. I know he had attached it without knowing the details of the attachment.

Q. Did you not know the fact that they had seized the entire stock of goods at the time you went to see Mr. Butler?

A. I should assume so.

Q. Did you not know that it was so?

239 A. Well, I knew from the records.

Q. How do you know so well what John Adden seized and you do not know what Smith seized?

A. I read all the records and found Smith's was a very small amount and the other a very large one.

Q. Did not Smith have the entire stock of goods at 58 Custom-House street under seizure at the time you went to see Mr. Butler?

A. I did not know it then.

Q. I ask you now if that is not the fact that on the 13th April, 1882, Smith had the entire stock of goods in the store of John H. Adden under seizure.

A. I have no reason to doubt it.

Q. Still you will not answer positively whether you knew it or not?

A. I will if I can.

Q. Then I ask you to answer positively one way or the other.

A. I don't think I can state positively.

Q. How is it that you can state so positively what John Adden had under seizure, and yet not be able to state positively what Smith had under seizure?

A. Because the amounts were very large and I gave a great deal of attention to them; the other claim of Smith was very small—not over $1,300.

Q. Had not Smith seized before John Adden had?

A. Yes, sir.

Q. Did you not litigate that suit yourself by an injunction—the Smith suit?

240 A. Yes, sir.

Q. Did you not know, then, that Smith had the entire stock of goods under seizure?

A. I did not know it as an absolute fact.

Q. I thought you put in an injunction in the Smith suit?

A. Yes, sir; I did.

Q. And you were defeated in that suit, were you not?

A. Yes, sir.

Q. Whom did you have looking for Weber?

A. I had Mr. Farrell.

Q. The policeman?

A. Yes, sir; or those in his office.

Q. Did you agree to pay Farrell anything for to find out Weber?

A. I agreed to pay him a *per diem* for his services.
Q. How much was that?
A. Ten dollars a day, I think.
Q. For how many days did you pay him?
A. I don't know—not many.
Q. Where did you get the money to pay him with?
A. All that identical money? *A.* The merchants' creditors had given me some money—a percentage on their claims to examine into this matter and try to get the property.
Q. How much money have you ever got out of the insolvency of John H. Adden?

Mr. Butler objects, as that is not at issue in this case.

241 A. About $300.
Q. Is that all the money you have received since March, 1882, up to the present date out of the insolvency of John H. Adden?
A. Yes, sir.
Q. $300?
A. Yes, sir; I think I am correct; $300.
Q. Who had paid your expenses since the time John H. Adden went into insolvency up to the present time?
A. I said the merchants' creditors paid a percentage on their amounts.
Q. How much has been paid to you — these merchants' creditors?
A. I should think about $1,800.
Q. What have you done with that $1,800?
A. I spent it going back and forth and in lawyers' fees.
Q. Are you a man of family?
A. I have got a wife and daughter.
Q. The whole of this money went for your own support?
A. I should think not.
Q. How have you supported yourself from the time John H. Adden went into insolvency?
A. I have at times been engaged with matters connected with the Pacific Bank of Boston for Mr. Hyde.
Q. Have you made money out of these matters?
A. I have got fees for it.
Q. What have you done with that $300 that was paid you out of the estate of John H. Adden?
242 A. That was spent, as I said, by expenses.
Q. Are you a man of property yourself?
A. No, sir.
Q. Have you been through insolvency yourself?
A. Yes, sir.
Q. When did you go through insolvency?
A. I should think three or three and a half years ago—between three and four years ago.
Q. Where did you go into insolvency?
A. In Suffolk county, Massachusetts.

Mr. Butler objects to all this testimony, as it has nothing to do with the examination-in-chief, and if it is to be used in evidence it must be used by the defendant, John Adden, as evidence in his own behalf.

Q. Did anybody sue John H. Adden in Massachusetts?

A. There were attachments on him at the time he went into insolvency.

Q. What attachments?

A. I don't know that I can state them accurately. They fell, of course, when this insolvency proceeding commenced, but Mr. Hobart was one.

Q. Give the amounts.

A. I cannot give them at all.

Q. What became of the assets of John H. Adden in Massachusetts?

A. A portion of them were sold at private sale, and the assignees sold the balance of the merchandize in last August, 1883.

243 Q. What assignees?

A. The assignees, J. M. B. Reynolds and Stillman E. Parker.

Q. Did you not sell some of the assets of John H. Adden yourself?

A. Yes, sir.

Q. How much did you sell?

A. About $240 worth.

Q. Why did not Parker join you in the sale of these assets?

A. Well, I did not ask him to.

Q. You sold without the knowledge of Parker?

A. No, sir. I had an offer for the goods; it was some machinery. They drew it from the business and moved it under the basement, and it became rusty, and I had it removed and put in order and told the parties to sell it. Prior to that I had an offer for it, and I submitted the offer to Mr. Parker, which he did not assent to; and as the machinery was deteriorating very fast I had it taken out and sold it.

Q. You sold it, then, without the consent of Parker?

A. Without asking him at the moment.

Q. He would not assent to it. Why did he not assent to it?

A. I did not ask him.

Q. Did he give any reason for dissenting?

A. At the time I submitted the offer to him?

Q. Yes.

A. He thought it was better to sell it as a whole.

Q. Why did you not consult him afterwards?

A. Well, I state that the machinery was rusty. He had removed it into a cellar where there were hides. It was appraised

244 at $170—that is, the whole of it—and as an opportunity came I sold it — $240, and it was appraised at $170.

Q. What became of these $240?

A. I left the amount with my counsel in Boston to account for it to the insolvent court there.

Mr. Butler objects as to what the witness has done with the proceeds of the machinery thus sold, as he is not called upon to account to anybody except to the insolvency court in Massachusetts in the matter of his duty as an assignee.

WITNESS: I have rendered an account to the insolvent court in Massachusetts, or referred it to my counsel to render an account of what I have done, and I also asked of Mr. Parker to render an account of his doings.

Q. You are not friendly towards Mr. Parker?

A. Yes, sir; I am. We disagreed as to matters of administration, but as gentlemen we have a mutual friendly understanding.

Q. How do you stand with Mr. Parker now?

A. He told me a falsehood, and now we meet as much as—as for him to say, "How do you do?" and I to say, "How do you do?"

Q. You always tell the truth?

A. Well, I have always had that reputation during life.

Q. You say you are personally friendly to him and you are together frequently?

A. I would not say I was unfriendly to him, but I do not feel the same towards him as I did, and I can give reasons.

245 Q. When did you last speak to Parker?

A. I cannot say when we last met, but we always speak when we meet.

Q. When did you last meet?

A. I cannot tell how many weeks ago. It was before the auditor of the superior court, in the court-house at Cambridge, Massachusetts; about six weeks ago, I suppose.

Q. When did you last speak to Mr. Adden?

A. The last time I spoke to him was in this city in June, 1883, I should think.

Q. After you first came here? You came here, you say, on the 12th April, 1882.

A. Yes, sir.

Q. When did you first see John Adden after that, and where?

A. It was very soon after, at 58 Custom-House street.

Q. When did you have this conversation with John Adden to which you have referred in your direct examination? Name the first time and place that you had a conversation with him.

A. I have not stated in any instance that I had a conversation with him about this matter. My testimony should have been that I heard him say thus and so.

Q. Where did you hear him say thus and so?

A. On his examination in New Hampshire and on his examination in New Orleans.

Q. Then, with reference to what you have stated in your testimony of what John Adden said, you have reference to the testimony given by him on the witness stand?

246 A. What I have said is what I have heard him say.

Q. But John Adden has not made such statements to you on the street?

A. I never said that he did.
Q. I ask you if he did.
A. No, sir; he did not.
Q. These are simply statements that you heard him make in court while giving his testimony?
A. Yes, sir.
Q. You have reference to the statements made by him before Judge Monroe, have you?
A. In part.
Q. And statements made where else in part?
A. At Lancaster, New Hampshire, in part.
Q. When?
A. In February, 1883.

Counsel for defendants now object to all the statements of the witness relative to the alleged sayings of John Adden, and will ask that the statements here made by the witness as to what John Adden says be stricken from the record on the ground that they are not the best evidence, but that they are the evidence given by John Adden and they should be produced.

Q. The evidence given by John Adden was taken down in writing?
A. Taken down certainly in writing, in Boston.
Q. They were reduced into long-hand writing and paid for by you?
A. In New Hampshire it was taken down in writing, and
247 also at New Orleans. It was taken down and written out.
Q. And afterwards paid for by you?
A. Yes, sir.
Q. Now, how many clerks were at this establishment, 58 Custom-House street?
A. I don't know; I was never there but a very few times.
Q. George W. Weber was a clerk there?
A. So I have heard Mr. John Adden say, and so I heard Mr. John H. Adden say.
Q. This Chris. Stock was a clerk?
A. Yes, sir; I first saw him there one day; I met him there one day when I went there with the sheriff to examine the stock. I did not know who he was then, but afterwards I learned it was Chris. Stock.
Q. Did you ever have a conversation with Mr. John Adden?
A. Yes, sir.
Q. When and where?
A. At No. 133 Pearl street, Boston.
Q. When?
A. In March, I should say, or the first days of April; either on the last day of March or the first day of April, at No. 133 Pearl street, Boston.
Q. And no conversation since then?
A. He has asked me some questions at times and I answered him.
Q. What questions?

A. I think he asked me one time about this Smith suit; he
248 was to give in a statement.

Q. Was that all the conversation that passed between you and him?

A. There was other conversation at the general meeting, but not about this matter.

Q. Since that conversation on Pearl street you never had any conversation with John Adden about these matters?

A. No, sir; I will add to that, it seems to me that I said to him that I was going to win eventually.

Q. When you spoke of John Adden's statement relative to this $500 Weber note you refer to the statement made by John Adden on the witness stand?

A. Yes, sir.

Q. All you know about that $500 note, so far as the statements of John Adden are concerned, are from what John Adden stated on the witness stand in Judge Monroe's court?

A. Yes, sir.

Q. You say John Adden married Parker's sister?

A. Yes, sir.

Q. When was that?

A. I cannot say.

Q. How long ago?

A. I don't know.

Q. Long years ago?

A. I don't know.

Q. Has she not been dead a great many years?

A. I don't know.

Q. How many years have you been told?

249 A. I don't know whether it was fifteen, ten, or five years.

Q. Has she been that?

A. Well, she ought to, because he has had another wife within two years.

Q. Has she been dead fifteen years?

A. I don't know.

Q. How long have you known Parker?

A. I never saw him before, to my knowledge, until the day before he was elected assignee.

Q. How long has he lived there in Reading Massachusetts?

A. I don't know.

Q. How long have you lived in Massachusetts?

A. Fifty years.

Q. Was John Adden at the meeting of John H. Adden's creditors in Massachusetts?

A. Yes, sir.

Q. On the 23 March, 1882?

A. Yes, sir.

Q. Did John Adden at that meeting make any statement of attaching the property of John H. Adden at New Orleans?

A. I did not hear him.

Q. Did he or not make any statement concerning it?

A. Of my own knowledge, I know nothing.

Q. Did you hear anything from any of the creditors on the subject?

A. No, sir.

Q. Did you hear anything from the Batchelors or any other creditors on the subject?

250 A. No, sir.

Q. How long were you at that meeting?

A. I should say until it was over.

Q. How long did it last?

A. While the hour called was nine o'clock, I think nothing was done until noon, as other cases had priority; so three or four hours.

Q. John Adden and several witnesses state that at that meeting John Adden stated that he had attached the property of John H. Adden in New Orleans. Are you prepared to state that these statements are not true?

A. I am not prepared to state anything about it. I know nothing about it.

Q. Who were the counsel of Batchelor & Co. in Massachusetts on the 23rd March, 1882?

A. Mr. Eastman.

Q. How did he come to ask John Adden whether he attached the property of John H. Adden in New Orleans?

A. I don't know that he did.

Q. You spoke of John Adden having stated that he went to Mobile to avoid giving his testimony under a commission here?

A. Yes, sir.

Q. Where did John Adden make that statement?

A. In New Hampshire.

Q. When?

A. In February, 1883.

Q. Before what court?

251 A. Before the commissioner taking depositions.

Q. You only know that he made such a statement from the fact that he made that statement as a witness in New Hampshire?

A. Yes, sir.

Q. That testimony was taken down in writing?

A. I have stated it was taken down in writing.

Q. You had considerable conversation with Parker while you and he were together, had you not?

A. Yes, sir.

Q. Did Parker ever say anything to you while you and he were here together with reference to any knowledge or belief on your part that John Adden had attached the property of John H. Adden in this city, and that you became vexed upon Parker's making such a statement to you when you and he were here together?

A. No, sir; Mr. Kellogg made a statement here in court that I knew such things were so, and the next time I met Mr. Parker I asked him whether he stated to either of you gentlemen thus and so, and I said to him please quote me correctly if you will, but do not

put false words in my mouth. There was no more trouble about it after that. We were out together to Carrollton and the Spanish Fort and kept our personal relations well enough.

Q. The insolvency proceedings of John H. Adden are still pending in Massachusetts?

A. Yes, sir.

Q. Did a majority in number and amount of the creditors
252 of John H. Adden consent to his discharge?

A. No, sir.

Q. Did a majority in number and amount of the creditors who proved their debts in the insolvency proceedings in Massachusetts consent to the discharge of John H. Adden?

A. No, sir.

Q. You are positive of that?

A. Yes, sir.

Q. You swear positively to that?

A. I swear that I believe they never did.

Q. You will not, then, swear positively that they never did?

A. Yes, sir; I think I may say positively that they never did, and I will do so.

Q. You spoke of the arrest of John Adden by the sheriff?

A. Yes, sir.

Q. Did not that arrest of John Adden by the sheriff take place almost simultaneously with the subpœna to attend Judge Houston's court?

A. Very soon thereafter.

Q. How soon thereafter?

A. I don't know.

Q. Was it fifteen minutes thereafter?

A. I should think not.

Q. Then, he was arrested by the sheriff within fifteen minutes after the service of the subpœna to attend Judge Houston's court?

A. Yes, sir.

253 Q. Were you present when he was arrested?

A. No, sir.

Q. Were you present when the subpœna was served?

A. Yes, sir; I went in and pointed Adden out.

Q. Did you instruct the sheriff to make that arrest?

A. No, sir; he got his instructions from the court.

Q. Who gave these instructions to the sheriff?

A. I presume Mr. Butler did.

Q. Did not Mr. Butler do it at your instigation?

A. I don't know anything about Mr. Butler's motives. I told him Mr. John Adden was here, and he took the proper methods.

Q. Did you not take steps for the issuance of the attachment against John Adden?

A. Unless I signed some paper in which it was endorsed, I don't know.

Q. Did you know when you went with the sheriff to Mr. Adden that the sheriff had the attachment as well as the subpœna in his hand?

A. Yes, sir; I did.

Q. You were aware of that fact when you went with the sheriff?

A. Certainly I was.

Q. Was Mr. John Adden at dinner when he was served with the subpœna?

A. Yes, sir.

Q. Was he at dinner when he was arrested under that attachment?

A. I have reason to believe so. I did not see him.

Q. Where were you at the time?

254 A. I was in the hall of the hotel. I simply said this: "This is Mr. Adden," and the officer had his instructions.

Q. Did Mr. John Adden refuse to go with the sheriff?

A. I have reason to believe that he did, for the reason that he was arrested.

Q. Is that the only way you know it?

A. I would say so, and yet it is possible that the sheriff says he declined to come. I think that is the way that it was. He came out and said Mr. Adden declined to come, and I said, "You know your instructions." I would say that was the outcome of it.

Q. Did he not say that John Adden declined to come until he had finished his dinner?

A. Yes, sir; I think so.

Q. And yet you instructed the sheriff to take him off while at dinner?

A. I gave no instructions to the sheriff.

Q. What did you say?

A. As I remember it, I said, "You know your instructions."

Q. How old a man is Mr. John Adden?

A. It is stated he is seventy-two. I heard him testifying so.

Q. You had him incarcerated that night in prison?

A. I did not. You declined to come, and the judge said he should hold him; not to let him go out of the city as he did before.

Q. You were present when the sheriff was going to take him to jail?

255 A. Yes, sir.

Q. Did he not offer bail?

A. Yes, sir.

Q. And the judge refused the bail?

A. He said it was not a bailable offense; that he was here under a subpœna; he was there, but his counsel was not there. I testified that notice was served on his counsel; that they read the notice and looked at one another; the judge knew that he had notice served on them, and he should come again and hear it.

Q. You knew he had been in the parish prison that night?

A. I saw the judge's instructions, but I did not see him in prison.

Q. You saw him in charge of the sheriff?

A. I did not.

Q. You never saw him in the hands of the sheriff after he was brought into court?

A. No, sir; unless he got into the hands of the sheriff the next morning, when you approached Mr. Butler about it.

Q. You knew he was in prison that night?

A. Yes, sir.

Q. You made no remonstrance against the fact of his going there?

A. I did not make any remonstrance against the fact; I wanted his testimony.

Q. When did you arrive this last time in New Orleans?

A. The 8th day of April.

Q. How long do you expect to remain here?

256 A. As I said just now, as long as Mr. Butler thinks I should stay. I am entirely in his hands.

Q. You knew of the transfer of the case against John Adden and others to this court shortly after such transfer took place?

A. You came into court and so stated.

Q. Is that the first you knew of it?

A. I knew the question had been argued.

Q. Did you know or not that the case against John Adden and others in Judge Houston's court had been transferred into the circuit court of the United States for the eastern district of Louisiana shortly after the transfer took place?

A. I don't know when the transfer took place, unless it was that very Tuesday.

Q. Did you not know that there had been a transfer of that case to this court?

A. I don't know what you mean by transfer, unless it was the decision to admit it here. The first thing I knew of it was on the Tuesday that the hearing was had in Judge Houston's court.

Q. When did you first know that your case in Judge Houston's court had been transferred to the circuit court of the United States for the eastern district of Louisiana?

A. I don't know the date. I know it was on Tuesday, in November—Tuesday, November 27th, 1883.

Q. You knew that the judge of this court had maintained his jurisdiction over this case?

A. I heard you read the record.

257 Q. And yet you went on with the case in Judge Houston's court after I read it, did you not?

A. Yes, sir.

By Mr. BUTLER—re-examined:

Q. I wish you would state the times and occasions, to your knowledge, that Mr. John Adden has sought to evade the process of the court when served upon him, calling him to testify in connection with the insolvency of his son, John H. Adden, beginning with the first time.

A. The time was in May, 1882, in this city; the occasion was a commission from the insolvent court of Massachusetts directed to a commissioner here, Mr. Eustis. Notice was served upon him and the day and hour fixed for the examination. He failed to appear.

Mr. Whittemore objects to the above on the grounds heretofore urged.

Q. State what was done to get him there.

A. The notice was served upon him. I went out to try and find him or learn where he was, and I learned that he went to Mobile.

Mr. Whittemore objects as hearsay.

WITNESS: That he was there for several weeks; that he had at times there Mr. George W. Weber and Mr. Stillman E. Parker with him. I learned that summer that he was in Lancaster, New
258 Hampshire (Mr. Whittemore objects), and I went down in person on a summons from counsel in New Hampshire to Lancaster. (Same objection.) He had been served with notice and accepted the fees for attendance at the examination and the day and hour fixed for the examination, but he did not appear. I heard in the afternoon of that day where he was. I drove over to Guildhall, Vermont, which was across the river, and the clerk of the court there said that Mr. Adden was down at the hotel, just below the court-house. A few weeks afterwards Mr. Adden reappeared in Lancaster, and was arrested by the sheriff, and the day for his examination mutually agreed upon by counsel of Mr. Adden and my own counsel, and upon his word to the sheriff that he would appear then he was released to appear upon the date fixed. When that day came I went again to Lancaster. We waited an hour for his appearance, and he failed to appear. The sheriff, having a knowledge that he was in the village, went for him, crossed the river, found him in Vermont, and brought him back. He then was brought before the magistrate. He declined to answer and was committed to jail until he would answer or give a proper reason why he would not. He was remanded to jail. He applied for a writ of *habeas corpus*, and no decision was had by the single judge, and it came before the full bench in December, 1882, and they decided that he must answer or stand committed until he did except as to such answers as would criminate
259 himself. I went again in February, 1883, to Lancaster and took his testimony.

Q. State whether or not he persisted in staying in jail, refusing to make his answer.

A. Nominally he was in jail all the time; practically he was not, for his counsel had given their words that he should appear. He came south to Bay St. Louis, I think, in February, 1882, and sent for his counsel, Mr. Kellogg, to meet him in Bay St. Louis, because he was informed by him it was not prudent for him to come to New Orleans. He met him there and returned to the North. In March, 1883, this notice was served upon him, and that was the cause of procuring his arrest at the same time. He would have evadad us if we—by we I mean myself—I asked that such measures be taken as to compel his attendance to testify. At a later moment, when a service had been made upon him here and a summons to to appear in court, he failed to appear again. This was in February, 1883.

Q. What about the sequestration suit?

A. That is what I refer to. The sequestration was begun, the papers were served upon him to appear at two o'clock that day, and he failed to appear. An inquiry at the house where he said he resided, made by myself, elicited the fact that they thought they would be back in the evening. Procuring the services of an officer, I went to the various railroads at the time of leaving and did not find him. I watched at the house until midnight, and he failed to come. The next morning I made inquiries and found he
260 had not been there during the night.

Counsel for defendant object to all of the foregoing testimony on the ground that it is parole evidence of facts which, if true, exist in writing, and that it is based largely upon hearsay.

By Mr. WHITTEMORE:

Q. Why did you go on with that suit before Judge Houston when you knew that the circuit court of the United States had refused to remand the case back to Judge Houston's and had maintained its jurisdiction over it?

A. After you said you would withdraw I heard Mr. Butler ask Judge Houston if he should go on, and Judge Houston said he should go on. That is the sum and substance of it.

Q. I ask you why you went on with the suit in Judge Houston's court after you knew this court had refused to remand the case.

A. I only knew it from hearsay.

Q. Were you afterwards enjoined by this court from proceeding any further?

A. Yes, sir.

Q. You were just about to leave the State when that injunction was served upon you?

A. Well, not for the purpose of avoiding anything; I went in and handed it to Mr. Butler. I had a niece of mine having returned from California, and we were going by the steamboat City of St. Louis, but I did not go for the purpose of avoiding the injunction.

261 Q. You got away the day it was served?

A. Yes, sir.

Q. You got one first with an erroneous name?

A. Yes, sir.

Q. How many days previous?

A. Several days. This trial was on Tuesday, and the one I speak of was Saturday. He did not find me until then.

Q. How much money have you made since the insolvency of John H. Adden?

A. Well, I cannot say that I have made any money. I have earned some money and spent it in living.

Q. How much have you earned?

A. I don't know. I cannot state how much I earned.

Q. How much money have you earned since the insolvency of John H. Adden?

A. I don't know how much.
Q. Well, about how much?
A. Well, not a very great deal.
Q. Have you earned $1,000?
A. I should think I have.
Q. Have you earned $2,000?
A. No, sir.
Q. Have you been doing almost nothing since the insolvency of John H. Adden?
A. No, sir; I have been doing with this, and a portion of the time attending to Pacific Bank affairs.
Q. And you think you earned about $1,000?
262 A. I never thought of that until now. What money I needed since my sister has loaned me.
Q. Did you state just now that Mr. Parker was in Mobile with John Adden?
A. Yes, sir; I did.
Q. Do you not know it to be a fact that that is untrue?
A. I have every reason to believe it is true, and I know it to be true.
Q. How do you know it is true? Give the source of your information.
A. Mr. Farrell addressed a letter in which I asked him to learn who was with him in the Battle House, and he reported he was there and Mr. Adden paid his bill there.
Q. You are swearing positively that they were both there together on the strength of Mr. Farrell's letter?
A. Yes, sir; that is my information.
Q. When were John Adden and Mr. Parker in Mobile together?
A. In the early part of June, 1882, according to the report of Mr. Farrell.
Q. How do you know that John Adden and George W. Weber were in Mobile together?
A. I heard Mr. John Adden state himself that he was there—stating it at different times.
Q. When you obtained this *ex parte* judgment against John Adden it was in Judge Houston's court?
A. I obtained a judgment.
Q. John Adden was not present when you obtained that judgment?
263 A. I did not see him. I have no reason to believe he was there.
Q. Still you don't know positively but what he might have been there?
A. He was not in my sight.
Q. You don't know whether he was there or not. Do I understand you so?
A. I did not see him.
Q. I ask you whether he was there or not. It is a very plain question for you to answer yes or no.
A. I cannot say yes or no. I did not see him.

Q. Were his attorneys or either of them there when you obtained the judgment?

A. I know Mr. Whittemore said he would withdraw from the case. I did not see anybody else.

Q. Was Mr. Kellogg there?

A. I don't think I saw him.

Q. Do you know whether Mr. Whittemore or Mr. Kellogg was there when you obtained this judgment in Judge Houston's court against John Adden and others?

A. I do not believe they were. I did not see them.

Q. You don't know whether they were there or not?

A. No, sir.

Agreement as to Testimony.

Mr. Butler, for plaintiffs in the case of E. & A. H. Batchelor & Co. against John Adden *et als.*, No. 10406, offers in evidence on behalf of plaintiffs the whole of the testimony and evidence which have been offered in behalf of plaintiff in the case of J. M. B. Reynolds against John Adden *et als.*, No. 10405.

Counsel for defendant, John Adden, made the same objections that they made throughout the testimony of J. M. B. Reynolds and the other evidence in the case No. 10405.

264 United States Circuit Court, Eastern District of Louisiana.

J. M. B. REYNOLDS, Assignee, etc.,
vs.
JOHN ADDEN *et als.*
} No. 10405.

Testimony taken on behalf of complainant before E. R. Hunt, Esqr. United States commissioner, this 1st day of May, 1884.

Agreement as to Testimony.

And it is agreed by counsel present that this testimony may be used in the case of E. & A. H. Batchelor & Co. against John Adden *et als.*, now pending in this court, being No. 10406 of the docket thereof.

Present: Frank N. Butler, Esq., for the complainant; E. N. Whittemore and C. S. Kellogg, Esqrs., for John Adden, one of the above defendants.

Mrs. MARY WEBER, sworn for the complainant, says:

By Mr. BUTLER:

Q. Where do you live?

A. I live on Phillip street, no number, between Freret and Locust streets, New Orleans.

Q. How long have you been living there?

A. Three years.

Q. Are you married?
A. Yes, sir.
265 Q. Who is your husband?
A. George W. Weber.
Q. Where does he live?
A. At home, when he is at home.
Q. You mean at that same place?
A. Yes, sir; when he is at home.
Q. Where was he during the year 1883?
A. I cannot tell you.
Q. Did you not see him during that year?
A. No, sir.
Q. Did you hear from him?
A. Once in awhile.
Q. Where from?
A. Well, I cannot read very well.
Q. Where was he when you heard from him?
A. In different places.
Q. In what place at any time?
A. Well, I cannot tell you what place because maybe he did not stay at the place.
Q. Where was he when he wrote a letter at any time?
A. He was one time in Alexandria.
Q. When was that?
A. Well, it has been so long I cannot tell you.
Q. When did you last hear from him?
A. A couple of days ago.
Q. Where was he then?
266 A. I forget the place now.
Q. Tell me as near as you can where it was
A. Somewheres up the river.
Q. What river?
A. Red River.
Q. What is he doing there?
A. I cannot tell you.
Q. Are you and your husband on bad terms?
A. No, sir.
Q. On very good terms?
A. Yes, sir.
Q. How often do you hear from him?
A. Once in awhile.
Q. How often?
A. Once a week.
Q. Where was he when you last heard from him, as far as you know?
A. The last time was in Jackson, Mississippi.
Q. When was that?
A. That was in April.
Q. This last month?
A. Yes, sir.
Q. How long had he been in Jackson?

A. A few days.
Q. What is his business?
A. I don't know what his business is. I cannot tell you.
Q. What has been his business?
267 A. He used to do business.
Q. At what place?
A. In a down-town store.
Q. At No. 58 Custom-House street?
A. Yes, sir.
Q. How long did he continue to be book-keeper?
A. I don't know. I have not been married to him long enough to know.
Q. How long have you been married to him?
A. Three years only.
Q. Have you got any children?
A. I had one when Mr. Reynolds had me subpœnaed down to the civil district court.
Q. You say you don't know anything about your husband?
A. Yes, sir.
Q. You only married him three years ago?
A. Yes, sir.
Q. You have only one child?
A. Yes, sir.
Q. When did you see him last?
A. I saw him in April.
Q. You said he was in Jackson in April?
A. He came home.
Q. How long did he stay here?
A. Only one day.
Q. Where did he go to then?
268 A. He did not tell me where he was going.
Q. And you did not make inquiry?
A. No, sir.
Q. You did not care where he was going?
A. No, sir; his business never bothers me.
Q. When was he last home before?
A. He was not home before.
Q. Before April when was he home?
A. He was here on the 8th or 7th of April.
Q. You say he went away the next day?
A. Yes, sir.
Q. How long previous to that had he been here?
A. He has not been here since.
Q. Previous to the 8th of April when had he been here?
A. A very few days. He never stayed home very much.
Q. He used to come and go very frequently?
A. Yes, sir.
Q. Whose employ is he in?
A. I cannot tell you. I never interfere with him. He never tells me anything about his business.
Q. He never tells you anything?

A. No, sir; nothing at all.
Q. When will he be here again?
A. I cannot say.
Q. Did he say anything about coming back here when he left?
A. No, sir.
269 Q. Has he written to you since?
A. No, sir; I got no letter.
Q. Not since the 7th of April?
A. No, sir.
Q. How long is it since he wrote from Jackson; you said two days ago?
A. Yes, sir.
Q. You have had a letter from him since he was here before?
A. I have not heard from him since.
Q. How did you get a letter from him the other day?
A. It was just a piece of paper—I do not call it a letter.
Q. Where was that from?
A. It was from Jackson, Mississippi; he did not tell me where he was going.
Q. Why do you not call it a letter?
A. Because it had not a stamp on it and no envelope on it.
Q. How did you receive it?
A. A gentleman brought it.
Q. Was your husband here very frequently during the spring of 1882?
A. No, sir.
Q. Was he not here when Mr. John Adden was here?
A. No, sir.
Q. Was he not constantly down here in the store No. 58 Custom-House street with him?
A. I don't know; I never was there. I don't know anything about the gentleman at all.
270 Q. Do you not know Mr. John Adden?
A. No, sir.
Q. Has he not called at your house?
A. No, sir; he has not. I don't know the gentleman at all.
Q. How often have you seen your husband since the spring of 1882?
A. I don't know; I did not count the days.
Q. Did you see him often?
A. No, sir.
Q. Did you see him as often as once a week while he was here?
A. Once a month.
Q. Where did he stay when he was here?
A. He stayed at home.
Q. Did you see him when he was home?
A. No, sir; he did not stay at home very often.
Q. You say he did stay at home and he did not? When in New Orleans where did he stay?
A. At home.
Q. Then when he was here you saw him almost every day?

A. No, sir; not every day; he only stayed a day or two, and then went off.

Q. Do you not know that he was constantly employed as book-keeper for John Adden previous to the failure of John H. Adden?

A. No, sir.

Q. How do you know he was book-keeper?

A. I did not know what he was until I was brought here.

Q. Did he not tell you he was the book-keeper of John Adden?

271 A. No, sir; I never asked him his business and he never told me; it did not bother me.

Q. Do you know how to write?

A. No, sir.

Q. You never wrote your husband any letters?

A. No, sir.

Q. Did you ever get anybody to write one for you?

A. No, sir.

No cross-examination.

HENRY WEBER, sworn for the complainant, says:

By Mr. BUTLER:

Q. What is your business?

A. Selling milk.

Q. Where do you live?

A. I live on Constance street between Washington and Sixth streets, Fourth district.

Q. How long have you been living there?

A. I have lived there since 1838.

Q. Does the place belong to you?

A. Yes, sir.

Q. What is it worth?

A. That I cannot tell you. Some years ago it was worth $15,000; now maybe it would not bring more than $6,000 or $3,000.

272 Q. Do you know George W. Weber?

A. Yes, sir; he is my son.

Q. Where is he?

A. I cannot tell you.

Q. When did you see him last?

A. I saw him about two years ago.

Q. Have you not seen him since?

A. No, sir.

Q. You have not seen him for two years?

A. No, sir.

Q. Are you on good terms with your son?

A. I have nothing against him. He got married and went away from me and I did not care much about him any more. He has been married three years.

Q. Do you visit his house?

A. I have been there one time when she (Mrs. Weber) had a baby; that was last year.

Q. Have you been there since?
A. No, sir; only that time. She was sick and had the doctor.
Q. When did you last see your son?
A. A year ago.
Q. Whereabouts?
A. At my house.
Q. Where else did you see him besides at your house?
A. No place else.
Q. Were you ever in John H. Adden's store, 58 Custom-House street?
273 A. I was there once in the night.
Q. What took you there?
A. My two sons were working there.
Q. What happened while you were there; what transaction did you make while you were there?
A. None at all; I was there and went in to see my sons.
Q. Do you know John Adden?
A. I saw him once in my life.
Q. When was that?
A. That was last March two years.
Q. What happened on that occasion?
A. Nothing at all. I saw him standing in his store.
Q. Did you have any business transaction with him?
A. No, sir.
Q. You never had any business transaction with him?
A. No, sir; never in my life.
Q. Did you ever have any business transactions with John H. Adden?
A. No, sir.
Q. Did you ever own a note signed by John H. Adden?
A. Yes, sir.
Q. Whom did you get that from?
A. My son brought it to me and told me I should buy it and I would make money on it.
Q. Your son brought it to you?
A. Yes, sir.
Q. Which son?
274 A. George W. Weber.
Q. When was that?
A. It is over two years ago.
Q. When?
A. I believe it was in March, two years ago.
Q. You say your son, George W. Weber, brought that note to you and told you to buy it?
A. Yes, sir.
Q. What did you give for it?
A. I paid $505.
Q. In what?
A. In cash money. I paid it in the bank.
Q. What was the amount of the note you bought?
A. I believe $5,000; I cannot tell you now.

Q. Why did you buy it?
A. Because I thought I would make money on it, like everybody else.
Q. Who told you you would make money on it?
A. My son said the note was good.
Q. Your son told you the note was good for $5,000, and he told you only to pay $505 for it?
A. Yes, sir.
Q. Whom did you give the cash to?
A. Paid the cash in the bank.
Q. What bank?
A. I don't know, but I have got the receipt made from the bank. You come home and see it.
275 Q. Where was the bank situated—what street was it on?
A. That I cannot tell you. They protested my note and the fellow came up from the bank and I paid him the cash money at the house and he gave me a receipt. I never was at the bank in my life.
Q. You did not pay cash for the note; you gave your own note?
A. Yes, sir.
Q. What was the amount of your note?
A. $500. Then it was protested and they came and charged me five dollars more.
Q. How many days did your note have to run?
A. My note?
Q. Yes.
A. Until it was paid.
Q. Was it made payable at any time from its date?
A. Any time.
Q. Then it was not payable at any particular time?
A. No, sir.
Q. Who wrote your note?
A. I cannot tell you.
Q. Did you write it yourself?
A. No, sir.
Q. Where did you get the money from to pay that note?
A. Me?
Q. You yourself.
A. Where did I get the money?
Q. Yes.
276 A. I could pay three more if I wanted.
Q. That is not my question.
A. That is a funny question you ask me, where I got the money from.
Q. Where did you get the money from to pay your note?
A. I worked for the money.
Q. Did nobody give you that money to pay that note?
A. No, sir.
Q. Did your son bring you the money to pay the note?
A. No, sir.
Q. Did your son ever work for you?

A. Not since he has been married.

Q. You never saw Mr. John Adden but once in your life?

A. That is all I saw him. The other Adden I did not know at all. I never saw him in my life. Mr. Reynolds came up to my house in the evening after dark, about seven o'clock, and wanted to know if I was Mr. Weber. I told him yes. Then he wanted to know if I could not give him information of my son, and I told him no; he would have to go to the store. Then he asked where did Mr. Adden live, and I told him I did not know anything about him. Then he wanted to know if I bought the note, and I told him yes. Then he wanted to know if I knew it was good, and I told him yes. Then he wanted to know how much I paid for it, and I told him that was my business. Then he went off.

Q. Did you or not tell Mr. Reynolds the time when you
277 bought this note?

A. I believe I told him the time.

Q. What time did you tell him then?

A. I believe I told him in March—two years in March.

Q. Is it not possible you told him in April?

A. I cannot say. I believe I told him in March. It is over two years ago.

Q. If you told him the time, then, the time you told him was the correct time?

A. I believe so.

Q. Had you been consulting your son previous to your buying this note as to how you should invest your money?

A. No, sir. Why should I consult him if I lost $100 or $1,000?

Q. How came you to accept his statement about the value of that note if you did not take counsel with him as to how you should invest your money?

A. He came up and said to me, "Pa, there is a note, and you can make money on it," and I asked him if he thought I could make money on it, and he said yes, and I bought it.

Q. Did he say anything about who gave him the note to sell?

A. No, sir.

Q. How did you come to sue on this note of $5,000?

A. When I heard the people failed I thought I would go and try my best.

Q. Who told you that they had failed?

A. Mr. Reynolds.

278 Q. That is the first you knew of their failure?

A. That is the first I knew.

Q. Did you have any attorney at that time?

A. No, sir.

Q. How did you happen to go to Mr. Kellogg?

A. Well, I did not go to Mr. Kellogg; I went to Mr. Whittemore.

Q. You went to Mr. Whittemore because you knew him?

A. Yes, sir; because he was my neighbor.

Q. Previous to two years ago were you in the habit of seeing your son, George W. Weber, often?

A. I told you I did not see my son for two years.

Q. You did not see him frequently?
A. Once or twice a month.
Q. Since that time you have only seen him once?
A. I did not see him since two years.
Q. Why have you not seen him?
A. Because he has been off and came back again. I lived in the Fourth —, and when he came back he went home, and I did go near him.
Q. Did he not live as far from you two years ago as he does now?
A. No, sir.
Q. Where did he live two years ago?
A. They lived in the same place.
Q. Previous to that time you used to see him once a month?
A. Yes, sir.
Q. You are living in the place you are now since 1838?
A. Yes, sir.
279 Q. How long has he been living on Phillip street?
A. Three years.
Q. While he was living there did he not come and see you?
A. Yes, sir; until two or three years ago.
Q. Had you any falling out with him?
A. No, sir.
Q. What is the reason he does not come and see you?
A. I don't know the reason; I have no reason. If he has a reason I cannot tell it.

No cross-examination.

Mr. Whittemore objects to the whole of this testimony of Mr. Weber as being irrelevant.
Mr. Butler states that this objection comes too late.

J. M. B. REYNOLDS recalled.

By Mr. BUTLER:

Mr. Whittemore objects to the recalling of Mr. Reynolds on the ground that he has been examined in chief, cross-examined, re-examined, and therefore he cannot be recalled again.
This objection does not extend to the witness being recalled to make corrections in his testimony.
The witness has not seen his testimony since transcribed, but desires now upon refreshing his memory to make the
280 following corrections:

Q. With reference to what you stated as to the amount and number of the creditors of John H. Adden or those who have proved their debts, please state what answer you desire to give in connection with the matter of their consent to the discharge of John H. Adden.

Mr. Whittemore objects on the ground that the witness has answered the question before positively and fully upon being questioned and requestioned upon the subject, and that his answer can-

not now be changed; also that the question calls for a matter of record and the record must be produced.

A. I stated at the last examination that I would swear that a majority in number and amount had not signed their consent to Mr. John H. Adden's discharge. There were 57 different parties proved their claims against the estate. Of that number—of those signing the petition for his discharge and who when they gave their claims to Mr. A. V. Lynde to vote for choice of assignee also gave a power of attorney, through the same paper, empowering him to vote their assent, and of that list there were 33 different parties who have made their assent.

Q. Of these 33 are there any preferred creditors?

A. There are eight preferred creditors whose united claims are less than $200. Subsequently nine of those who had given their assent revoked it by signing a paper objecting to said
281 discharge.

Q. Was that paper filed in court?

A. Eight of these names are filed, being of the 26 who filed their dissent.

Mr. Whittemore objects to the above, as parole evidence is inadmissible on this subject.

Q. How many, then, all told, finally consented to the discharge of John H. Adden?

A. Twenty-four.

Q. And how many objected to his discharge?

A. There were 33 who did not assent to it.

Q. How many objected formally?

A. Twenty-eight in writing.

Cross-ex. by Mr. WHITTEMORE:

Q. All the consents are in writing, are they not?

A. There were eleven who signed a formal assent.

Q. Is it in writing?

A. Yes, sir; eleven persons, themselves signed it.

Q. All consents are in writing? Answer yes or no.

A. Yes, sir.

Q. All the proofs of debt are in writing? Answer yes or no and then explain.

A. I cannot answer that. The proofs are blanks, and some portions are in print and some in writing.

Q. But they are all either in writing or in print?

A. Yes, sir.

282 THOMAS GRIFFEN, sworn for the complainant, says:

By Mr. BUTLER:

Q. What is your business?

A. At that time I was keeper in the sheriff's office.

Q. In the year 1882 you were captain of keepers in the sheriff's office of the parish of Orleans?

A. Yes, sir.

Q. Did you in that capacity have anything to do with the placing of keepers in charge of property seized in the suit of John H. Adden?

A. Yes, sir; it was I made the seizure.

Q. You made the seizure?

A. Yes, sir.

Q. Did you have an inventory taken of the property?

A. It was taken afterwards. There was a clerk sent from the court to take the inventory.

Q. There was an inventory taken after you made the seizure?

A. Yes, sir.

Mr. Butler offers in evidence, to be produced, the inventory made after the seizure by the witness.

Q. Who did you place in charge of the establishment as keeper—do you recollect?

A. In fact, there were so many keepers changed in that place that I don't know the first keeper. I changed the keepers very often in that house, but the last keeper I put there was Mr. Thomas Bell, and also a man named Denny Irvin, who is now dead.

283 Q. During the time that you were in possession of this property at 58 Custom-House — who had possession of the key of the safe?

A. I made the seizure, but I could not find any keys. I was told that one Mr. Weber had the keys.

Q. What Weber?

A. I think it was the chief clerk's father, and he lived away uptown, and when I went there they thought I was a court officer or something. I tried to get the key, but my instructions were not to let anything out of that safe—to watch it. If I knew there was anything gone I would take that keeper away.

Q. Did you have possession of the key of the safe?

A. No, sir.

Q. Had any of your keepers possession of the key of the safe?

A. No, sir.

Q. Did you make any efforts to get the key of the safe?

A. Well, I heard it was this old gentleman, Weber's father. I asked him for the key of the safe and he told me he did not have it.

Q. Did you see the chief clerk?

A. No, sir; I asked for him and they said he had left.

Q. He was the son of the old man?

A. Yes, sir.

Q. Did you have anything to do with the opening of that safe?

A. One of the deputies was told to get a locksmith to open the safe.

284 Q. Did you get any orders from the sheriff to open the safe?

A. I did not get orders, but I was present when it was opened. There was nothing in it but a few old books and papers. I did not examine them; they were taken out of the safe and put into a box

and nailed up by one of the deputies and taken off, but I stayed to see if there was anything in the safe, but I could not see anything.

Q. Were there any notes?

A. No sir. I could not tell you what the contents were.

Q. Was there an inventory made of the contents of the safe?

A. I believe there was.

Q. Were there any large books in the safe, such as the ledger, journal, or books of the business?

A. No, sir; I did not see any books; they were small books that I saw.

Q. Was there anything of any particular value in the safe, as far as you could judge?

A. I don't think there was.

Q. Did you look at them?

A. I did not look to see the contents of the papers, but they were brought to the office; then, when the papers were taken out, I left.

Q. Were you at the place often during the seizure?

A. I had to be there all the time.

Q. Did you ever see the old gentleman there, John Adden?

A. No, sir; I did not see John Adden at all. I was inquiring if I could see him, because my instructions were that if Mr.
285 Adden came to let him in, or if the chief clerk wanted to bring anybody in to let him, but nobody else.

Q. Who was the chief clerk—George W. Weber?

A. I think it was Mr. Weber.

Q. If he brought anybody in there you were authorized to let him?

A. Yes, sir; but in this case I was not authorized to let anybody in; I let them come in myself. I knew that Mr. Walsh, the chief deputy, would like, if the proprietor of the place wanted to bring anybody in, to let him.

Q. Whom did you understand to be the proprietor of the place?

A. Mr. John Adden.

Mr. Whittemore objects to the above question.

A. I mean John H. Adden.

Q. Did you not know or understand that John H. Adden was represented here by his father, John Adden, the old man?

Mr. Whittemore objects.

A. No, sir.

Q. Did you ever see John Adden?

A. I don't know, to my knowledge.

Q. Then, when you went there and saw the safe opened by the locksmith, was it so opened because the key could not be found?

A. Yes, sir; and the lock was cut.

Q. Was that after you made diligent effort to get the key that you had to get it opened by a locksmith?

A. Yes, sir; they could not pick the lock.

Cross-ex. by Mr. WHITTEMORE:

286 Q. Did you sign that affidavit?

A. Yes, sir.

Q. Is that affidavit in Mr. Butler's handwriting?

A. I don't know anything about his writing, but I know that is my signature.

Mr. Butler states that the affidavit referred to is in his handwriting, and the witness signed it after hearing it read over to him and knowing the facts it contains.

Mr. Whittemore offers the affidavit in evidence here, marked X.

Mr. Butler objects to the affidavit being offered unless the Exhibits A, B, C, annexed to it, are also offered, which exhibits have already been offered by complainants.

By Mr. BUTLER: I am going to read this affidavit over to you—and I desire you to listen attentively—and ask you if the statements in it are true.

A. Yes, sir.

(Affidavit read.)

Q. I have now read that affidavit to you. Are the statements made in it correct?

A. Yes, sir; they are.

THOMAS BELL, sworn for complainant, says:

By Mr. BUTLER:

Q. Are you a deputy sheriff or a keeper of the sheriff?

287 A. A deputy civil sheriff. I was keeper on the Adden place, 58 Custom-House street.

Q. Do you remember when you went there?

A. Yes, sir; I went there on the 26th April, 1882, and I stayed there until the 19th June, 1882, *at* the time the place was sold. That was the last time I was there. The sale took place three days before I left.

Q. You went there on the 26th April, 1882?

A. Yes, sir.

Q. At the time that you went there was or was not any person in the habit of going in connected with the business of Adden?

A. While I was there John Adden and Weber, supposed to be the chief clerk or book-keeper—a young man.

Q. George W. Weber?

A. Yes, sir; and Mr. Stock.

Q. Was there anybody else?

A. No, sir.

Q. During that time was John Adden there frequently?

A. Yes, sir; he used to come there frequently and pass in and out. There was a keeper there ahead of me—Mr. Griffen. I only know him from the time I came there.

Q. During the time you were there was George W. Weber frequently in the store?

A. Yes, sir.
Q. What did George W. Weber do about the store?
A. He did not do anything. I only allowed him to come in there and read the papers.
288 Q. Was or was not during the time you were there the safe opened?
A. Yes, sir.
Q. Do you know who had the key of the safe?
A. No, sir.
Q. How was the safe opened?
A. By a locksmith.
Q. But at the time you went there first.
A. No, sir; the safe was always locked. It was not opened at all.
Q. Were any of the books of the establishment laid upon the desk when John Adden or George W. Weber were in the store?
A. There were books lying there on the desk.
Q. Large books—ledgers?
A. No, sir; they were the regular books of the house.
Q. You saw them there?
A. I saw the books there piled up on the shelf.
Q. Were there any books of the business of the store lying there on the desk in the day-time?
A. No, sir; there was no business conducted there.
Q. You never saw the safe opened during the time you were there?
A. Not — the day-time.
Q. Was there a night keeper?
A. Yes, sir.
Q. Who was he?
A. Denny Irvine. He is dead.
Q. During the time you were there did you see anybody with the key?
A. No, sir.
289 Q. Did you have the key?
A. No, sir.
Q. Was the key offered to you by Weber, Adden, or anybody else?
A. No, sir.
Q. Did you try to get the key?
A. No, sir.
Q. The safe was always locked?
A. Always locked and in my charge.
Q. Did you see any one in there during the early part of your keeping the establishment by the name of Stillman E. Parker?
A. Yes, sir; there was Parker that used to come into the establishment sometimes with Mr. Adden.
Q. Did he come in from time to time?
A. Yes, sir; he stayed, for a fact, for two weeks; he used to pass by and come in with Weber or Mr. Adden.
Q. Did he tell you who he was and what he was doing there?
A. No, sir.

Q. He came in with Mr. Weber or Mr. Adden?
A. Yes, sir.
Q. When did you see George W. Weber last?
A. I cannot say.
Q. Did he disappear or not about the time Adden did?
A. Yes, sir; Mr. Adden was there off and on and came back, and Mr. Weber would be away, but I have not seen Mr. Weber for a good while—four or five months.

Q. While old Mr. Adden was here was Weber here?
290 A. I missed both of them for awhile. Mr. Adden came back then and finally went to Boston.
Q. While Mr. Adden was here Mr. Weber was in the office then?
A. I don't recollect.
Q. Or when Parker was there?
A. I don't know now.
Q. Who opened the store in the morning to let Adden and Parker and Weber in?
A. The night keeper used to come and relieve me, and I used to relieve the night keeper every morning. That was for fully two months that I was there.

Cross-ex. by Mr. WHITTEMORE:

Q. Did Mr. Reynolds, the gentleman sitting there, ever come into the store while you were keeper?
A. Yes, sir; he did.
Q. How often?
A. He came on different occasions to examine the goods. I suppose five or six different times—that is, to examine the stock and put it in order.

By Mr. BUTLER:

Q. During that time he had an order from the sheriff.
A. Yes, sir.
Q. He came there for the purpose of keeping the stock in order?
A. Yes, sir; two or three occasions he was there. Sometimes he would be away for a month or so and come back and examine the stock.

291 CHRIS. STOCK, sworn for the complainant, says:

By Mr. BUTLER:

Q. What is your business?
A. A shoe-packer.
Q. Where are you employed now?
A. No. 72 Canal street—B. Rosenberg.
Q. Were you ever employed in the establishment of John H. Adden, No. 58 Custom-House street?
A. Yes, sir.
Q. How long were you there?
A. Nine years.

Q. Who had charge of the business at the time you first went there?

A. Mr. Bernard Hufft, and then Mr. Shute had charge of it for awhile, and John Adden, and while he was away Mr. George W. Weber.

Q. How long was John Adden, the old gentleman, in charge of the business during the time you were there, or about?

A. About three or four years.

Q. Was he in charge of the business up to the time of the failure?

A. No, sir; John Adden was away when we failed.

Q. How long before the failure did John Adden go away?

A. I cannot say exactly; about a month.

Q. Whom did he leave in charge when he went away?

A. Mr. Weber.

292 Q. How long after the failure before Mr. John Adden came back?

A. I don't know exactly.

Q. Well, about.

A. I cannot say about, either.

Q. Was it a month?

A. I cannot say how long he was gone.

Q. How is it that you don't know how long he was gone?

A. I did not keep an account of it.

Q. When did the failure take place?

A. March 8th, 1882.

Q. Where were you at that time?

A. I was in the store.

Q. What were you doing there?

A. I was reading a paper at the present time.

Q. What was your business in the store at that time?

A. I was generally around the store, doing anything that they told me to do.

Q. Where was Mr. George W. Weber at that time?

A. He was in the store.

Q. Who was in the store at the time the sheriff came there with the seizure in the suit of John Adden against John H. Adden?

A. George W. Weber and myself.

Q. Only you two were there?

A. Yes, sir.

Q. Who had the key of the safe at the time?

A. Mr. Weber had the key.

293 Q. What did he do with it?

A. I don't know.

Q. After the seizure by the sheriff was the safe ever opened?

A. I can't remember.

Q. Do you not know it was opened after the seizure?

A. It was opened by the locksmith.

Q. Do you not know it was opened, before the locksmith came with the key, by George W. Weber?

A. I never saw it.

Q. Mr. Adden has been under examination in this case, and in

the course of his examination he stated that when he left here on the 16th May, 1882, he left the safe key with you. Is that so?

A. No, sir.

Mr. Whittemore objects unless the testimony of John Adden is produced and exhibited to the witness, and on the further ground there is no evidence here that John Adden made any such statement.

Q. How long did you continue on the premises after the seizure?
A. Until the 1st July.
Q. What were you doing there?
A. Sitting down.
Q. Why did you stay there during that period?
A. I had no place else to go and I had to stay.
Q. Who asked you to stay?
A. Nobody in particular.

294 Q. Did you do any work at all there during that time?
A. No, sir.
Q. You never did a thing?
A. No, sir.
Q. You never did anything to keep the stock in order?
A. No, sir.
Q. You left there in July, 1882?
A. Yes, sir.
Q. Why did you leave there then?
A. Because I got another situation then.
Q. Where is George W. Weber?
A. I don't know.
Q. When did you see him last?
A. I saw him there a year ago.
Q. Whereabouts?
A. I met him on the street, on the corner of Magazine and Washington.
Q. When did you last see him at the store, 58 Custom-House street?
A. Somewhere between March and the 1st July, 1882.
Q. You saw him there after the 1st July?
A. No, sir; between the 1st July and March, 1882.
Q. You were there every day all the time?
A. No, sir; sometimes I was not.
Q. Were you not there generally during that time?
A. Yes, sir.

Q. When did Mr. John Adden come back after the seizure?
295 A. I don't know exactly when he came back.
Q. Was it a short time after?
A. I don't know whether it was five or six weeks.
Q. It was either five or six weeks after the seizure?
A. I cannot say how long he stayed away.
Q. After he returned did he come there quite often while you were there?

A. He came there every day and stayed awhile to read the newspapers and then went away.

Q. Do you know Mr. Stillman E. Parker?

A. A Mr. Parker came there; I don't know whether his name was Stillman or not.

Q. *How* did he come there with?

A. He came by himself.

Q. What did he do there?

A. He sat there and read the newspapers.

Q. Who was with him?

A. The old man, John Adden.

Q. Where was Mr. Weber during that time?

A. He came there and went off again the same as the others.

Q. Were Mr. Adden, Mr. Weber, and Mr. Parker ever there together?

A. I don't remember.

Q. Were the books of the establishment during the period of the seizure ever opened and examined by Mr. Weber or by Mr. Adden?

A. I don't remember seeing them examining any books.

296 Q. You don't remember? Did you ever see any of the books during that time?

A. I never saw the books.

Q. You are under oath now.

A. I know it.

Q. Did you ever see the books?

A. I saw the books there after the safe was opened.

Q. Previous to the safe being broken open did you see any of the books on the desk near the safe where Parker, Adden, and Weber would come?

A. They had some books lying there. I don't know what books they were.

Q. Did you ever open the books of John H. Adden at all during the nine years you were there?

A. Once or twice I did.

Q. Were you not familiar with their appearance when they were taken out of the safe?

A. No, sir.

Q. You don't know them?

A. No, sir.

Q. Do you know what a book is?

A. Yes, sir.

Q. Do you know what an account book is?

A. No, sir; I am not a book-keeper.

Q. Do you not know what a ledger is?

A. No, sir.

297 Q. Is it not because you do not want to know that you don't know?

A. I know nothing about book-keeping.

Q. Do you know the books that were kept about the business of John H. Adden?

A. No, sir.

Q. Did you ever see Weber writing in the books?
A. Yes, sir, I did, and then he had a smaller kind in the safe.
Q. Did you ever see any books like those Weber wrote in after the seizure *of the seizure* on the desks?
A. Yes, sir; once.
Q. Who had them?
A. Mr. Weber had them.
Q. You remember you saw them once?
A. I don't remember whether they were the same books or not.
Q. You saw the books?
A. Yes, sir.
Q. Where did he get the books?
A. He must have got them out of the safe.
Q. Did they keep these books in the safe at night?
A. I suppose so; he was there every night when I left.
Q. Did you ever see them in the safe at any time before the seizure?
A. I saw books in the safe.
Q. Did you see the books he was in the habit of writing in?
A. He was in the habit of writing——
Q. Do you remember the books that he was writing on
298 in the safe before the seizure?
A. Yes, sir.
Q. You saw them after the seizure, then, and George W. Weber looking through them?
A. They were lying there. I don't know whether he was writing in them or not.
Q. Where did he keep the valuables of John H. Adden?
A. I don't know.
Q. Where did he keep the notes and accounts?
A. I don't know.
Q. Did you ever open that safe at any time in your life?
A. I done it several times.
Q. With what?
A. With a key.
Q. Where did you get the key?
A. Mr. Weber, and I gave him back the key. That was the first time he came there; he did not understand the lock.
Q. You did know how to open it?
A. Yes, sir.
Q. You knew how to open it before Weber came there?
A. Yes, sir; Mr. Shute showed me; then I showed Mr. Weber.
Q. Do you know Mr. Weber personally?
A. Yes, sir.
Q. Do you know him intimately?
A. Yes, sir.
Q. Do you know his family?
A. Yes, sir.
299 Q. Have you ever been to his house?
A. Very seldom.
Q. Have you ever been to his house?

A. Only once where he lives.
Q. Have you had any communication with Weber since he left the store in July, 1882?
A. No, sir.
Q. Have you had any communication with Mr. John Adden since that time?
A. No, sir.
Q. You never seen him?
A. I saw John Adden here.
Q. Did you have a talk with him at all?
A. When I went to see him.
Q. Why did you go see him?
A. Merely because of friendship.
Q. Did you ever see the books left out of the safe at night?
A. No, sir; I never saw the books left out.
Q. What did Mr. Weber do?
A. He went to dinner and came back, and then I went home for the night.
Q. Where were the books when you left to go home at night?
A. They were in the safe. When he came I suppose he took them out; I don't know.
Q. Who put them in the safe?
A. I don't know who put them in the safe.

No cross-examination.

300 Q. Who paid you for your services after the 8th March?
A. Mr. Weber.

No cross-examination.

HENRY MARKS, sworn for the complainant, says:

By Mr. BUTLER:

Q. What is your business?
A. I am representing a New York clothing house as agent.
Q. Do you know the business establishment of John H. Adden, 58 Custom-House street, New Orleans?
A. Yes, sir.
Q. How long have you known that business?
A. I have known the business for the last fifteen years.
Q. Were you a clerk in that establishment?
A. Yes, sir.
Q. During what period of time?
A. I suppose about six years ago I was clerk.
Q. Who managed the business at that time?
A. At that time, Mr. B. Hufft.
Q. After Hufft who took charge?
A. Mr. Shute.
Q. When did Mr. Shute cease to have charge?
A. In 1878.
Q. Who took charge of the business then?

A. I had left the store, but to my recollection Mr. John
301 Adden, the old gentleman himself, took charge.

Q. While you were in the establishment whose business was it, so far as you know?

A. It is hard for me to say whose business it was. (Mr. Whittemore objects.) Mr. John Adden managed it and Mr. Lane run it.

Q. How do you know that Mr. Lane managed the business?

A. Mr. Lane engaged me. He made an engagement with me after I left Wallace & Co.

Q. What year was that?

A. I believe 1872.

Q. Was he there then in charge of the business?

A. John Lane was and B. Hufft.

Q. How long had Lane been in charge of the business with Mr. Hufft?

A. I cannot recollect.

Q. Did he stay here some time?

A. He stayed here some time—months and months.

Q. When did Mr. John Adden take charge of the business?

A. Mr. John Adden took charge of the business when he found out that Mr. Bernard Hufft was a defaulter. I do not wish to make this thing known, as it was hushed up a long time before now.

Q. When was that?

A. About five years ago. I don't know the exact time it was. When Mr. John Adden found out that Bernard Hufft was in default he sent for a young man named Parker, from Boston, to
302 look over the books. He was the clerk of John H. Adden in Boston, and he came and looked over the books.

Q. What was your position in the house of John H. Adden?

A. Sometimes traveller, and when Mr. Hufft was not in I had charge of the books and posted the books, received money, and attended to the books in general.

Q. Were you familiar with the affairs of the house at that time?

A. Yes, sir; perfectly.

Q. Whose capital composed that house?

A. Whose capital composed that house?

Q. Yes; the house of John H. Adden?

A. I cannot tell you that.

Q. You said you were familiar?

A. Well, but I never paid any attention to that because it did not interest me.

Q. What, if any, interest in the house did Mr. John Adden have?

A. Mr. John Adden?

Q. Yes; the old gentleman?

A. Well, he had so much interest in it *had* he had to be satisfied about everything that happened, and every expense, and everything bought, and every settlement made. Mr. John Adden done everything.

Q. During the period of your employment there did you ever see John Adden?

A. All the time, except a few months when he went to Boston.

Q. Did you consult with him as to what your duties were in connection with the house?

303 A. Yes, sir.

Q. Did he instruct you what to do?

A. Yes, sir.

Q. Do you know anything about two notes of $2,500 each in connection with which Mr. John Adden spoke to you?

A. Well, that is a private affair between him and me. Mr. Adden came to me after the failure and showed me two notes drawn by John H. Adden and made payable to John Lane on the back, and John Lane's endorsement, "No recourse," and he asked me if I would sue the establishment for that amount.

Q. When was that?

A. I believe it was in May, 1882. I am not so sure, but it was a short time after he returned from Boston after the failure.

Q. Were these two notes past due?

A. They were past due. I went to Mr. Sambola and asked his advice if I could sue on them, and he said yes, but I must give bond, and then I did not sue.

Q. It was to accommodate John Adden that you were to sue the house of John H. Adden on the two notes of $2,500 each?

A. Yes, sir.

Q. This request was made to you in May, 1882?

A. Yes, sir.

Q. Did he say anything further to you?

A. No, sir. I then gave the notes back to him.

Q. Are you a citizen of this State?

A. Yes, sir; I am.

304 Q. And you were at that time?

A. Yes, sir.

Cross-examined by Mr. WHITTEMORE:

Q. Do you know whether or not John Adden was under a salary with John H. Adden?

A. I never seen Mr. Adden credited with anything. I saw his private account that he drew so much money every month, but I never saw his account of salary.

Q. You are not willing to swear that John H. Adden was not paying John Adden a salary?

A. Well, to my knowledge I never saw it on the books that he was paying a salary. There might have been a private affair between them, but it was never on the books, to my knowledge.

Q. When did you see the books last?

A. I saw the books very often about three years ago. Mr. Adden used to consult me, call me in and ask me to look over the books and see what could be done with these accounts.

Q. You have not seen the books within the last three years?

A. No, sir.

Q. Who paid you your salary?

A. Mr. Adden, and sometimes Hufft.

Q. You were credited with your salary on the books of John H. Adden?

A. On the books of John H. Adden and John H. Adden & Co.

305 Q. You were not credited with it on the books of John Adden?

A. No, sir.

Q. It was John H. Adden or John H. Adden & Co.?

A. Yes, sir.

Q. Who was the company?

A. Mr. Hufft.

Q. You are not willing to swear that John Adden was a partner?

A. No, sir; I am not.

Q. Are you willing to swear that Lane was a partner?

A. No, sir; but he run the whole machine.

Q. Did you ever see Lane credited with profits on the books?

A. No, sir; I never did.

Mr. Butler offers in evidence, from the Public Statutes of Massachusetts, published in 1882, from chapter 157, section 1, pages 879, 880 of the volume; also, from the same statutes, chapter 143, section 1, page 801.

Mr. Whittemore objects to section 1 of chapter 143 upon the ground that it is irrelevant and has no application to this case; also objects to chapter 157, section 1, on the ground that it is only a part of the insolvent laws of Massachusetts, and that the whole of chapter 157 should be offered in evidence, and further objects that the insolvent laws of Massachusetts have no effect outside the jurisdiction of the Massachusetts court.

Statutes of Mass. of 1882, particularly chap. 157, sec. 1, pp. 879, 880, and sections 43, 44–46, p. 886; also chap. 143, sec. 1, p. 801. See volume annexed to this transcript.

306 *Testimony of F. W. Boize, G. J. Barthé, Thos. W. Muller.*

United States Circuit Court, Eastern District of Louisiana.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.*
} Nos. 10405, 10406.

Testimony for complainant resumed this 8th day of May, 1884, at 3 o'clock p. m., at the law office of E. N. Whittemore and C. S. Kellogg, Esqrs, No. 13 Carondelet street, New Orleans.

Present: Frank N. Butler, Esqr., for complainant; E. N. Whittemore and C. S. Kellogg, Esqrs., for John Adden, a defendant.

F. M. BOIZE, a witness called, sworn, and examined for complainant, says:

By Mr. BUTLER:

Q. State your occupation.

A. Book-keeper and cashier of W. G. Vincent & Co.
Q. For how long?
A. Ten years.
Q. Do you know Mr. George W. Weber?
A. Well, I may know him by sight, but not personally. I know him by being neighbors.
Q. Where was he employed?
A. At John H. Adden's.
307 Q. Whereabouts?
A. On Custom-House street between Chartres and Dorcier streets.
Q. How do you know he was employed there?
A. He used to come in and collect for goods that we bought from Adden.
Q. He would collect bills?
A. Yes, sir.
Q. How long had he been in the habit of doing that?
A. I cannot say.
Q. For some time?
A. Yes, sir.
Q. How often did he do it?
A. By looking at my books I can state.
Q. Look at this book and state what it is.
A. It is the receipt book of Vincent & Co. for moneys that we paid out.
Q. I now direct your attention to a particular receipt, which is as follows:

NEW ORLEANS, *April* 15, 1882.

Received from Vincent & Co. $32.25, amount statement rendered.

(Sig.) J. H. ADDEN,
Per GEORGE W. WEBER.

That purports to be a receipt to Vincent & Co. given by George W. Weber?
A. Yes, sir.
Q. Is that his genuine receipt?
308 A. Yes, sir.
Q. Do you know his signature?
A. Yes, sir.
Q. Did you pay him that money?
A. Yes, sir.
Q. The amount that you find in that receipt?
A. Yes, sir.

Mr. Butler offers the above copy of receipt in evidence.
Counsel for John Adden objects to the receipt as irrelevant.

Q. How did you come to pay Mr. Weber that money?
A. That bill should have been paid in March, and we had understood that he was under seizure and we refused to pay it in March.
Q. That who was under seizure?

A. Mr. Adden. So Weber came at that time and said that Mr. Adden made all his arrangements, and he was authorized to collect all his bills, and upon that I paid him.

Counsel for John Adden object to all the above testimony as irrelevant.

No cross-examination.

G. J. RATHE, sworn on behalf of complainant, says:

By Mr. BUTLER:

309 Q. What is your business?

A. I am a merchant.

Q. Were you ever employed in the establishment 58 Custom-House street; if so when?

A. No, sir.

Q. Never at that place?

A. No, sir.

Q. Were you ever employed by the defendant, John Adden?

A. Yes, sir.

Q. When, where, and in what capacity?

A. I was employed in that house in 1869, No. 96 Magazine street, and stayed with him until 1875.

Q. Who had charge of the business at that time at that place?

A. Mr. Hufft, at the time I was hired.

Q. Who else was there during the time you were employed at that place—I mean the managers?

A. Well, Mr. John Lane, and Mr. John Adden arrived soon after from Boston.

Q. From whom did you receive your instructions as to your work?

A. Mr. Adden and Mr. Hufft; they all gave me instructions.

Q. While Mr. John Adden was there what did he do, if anything, as proprietor of that establishment?

A. He gave orders; he took us about; inquired about what goods were required; looked at the shoes. The selling he never did, because there were enough there to see to that.

Q. Who ordered the stock to be supplied from time to time?

310 A. I cannot say who ordered the stock particularly.

Q. When any line of goods was out, to whom did you go to have it replaced?

A. Well, I told it to Mr. Adden, and also to Mr. Hufft.

Q. What did John Adden do when you told him?

A. I told him whose make it was.

Q. What was done by Mr. John Adden when you told him that a certain line of goods was exhausted?

A. Well, it was a pretty large business, and I cannot state who would get the line given.

Q. Were they in the habit of keeping the stock supplied?

A. Yes, sir.

Q. Did you order the stock?

A. No, sir.

Q. Who was the stock ordered by?
A. It is hard for me to tell.
Q. Did any other clerk in the establishment, to your knowledge, order the stock?
A. No, sir.
Q. Had the clerks anything to do with ordering the stock?
A. No, sir; I don't think so.
Q. Well, as far as you know?
A. To my knowledge, Hufft and Mr. Adden ordered the stock.
Q. Was Mr. Adden here during the time you remained in the establishment, after he first came from Boston, most of the time?
A. He went away, off and on.
311 Q. He came and went away?
A. Yes, sir.
Q. What proportion of each year did he spend here?
A. In 1874, if I recollect right, and 1875. In 1875 I left.
Q. What portion of the time from 1869 did Mr. John Adden stay?
A. From winter until the heat set in here.
Q. Do you know where he went to then?
A. To my knowledge, to Boston.
Q. When you say "to my knowledge" do you mean as far as you know?
A. Yes, sir.
Q. From whom did you learn that he was going to Boston?

Mr. Whittemore objects unless the witness was told by John Adden himself.

A. Well, when it was understood he was going away he went there.

Mr. Whittemore objects as above.

Q. Did Mr. Adden ever state in your presence that he was going to Boston?

Objected to as leading.

A. He may have said so, but it was so unimportant a thing I don't remember it.
Q. Your understanding, as far as you know, was that he was in the habit of going to Boston?

Mr. Whittemore objects to the question as leading, and also calls for the opinion of the witness.

A. Yes, sir.
312 Q. While you were there did or did not Mr. John Adden act as clerk?
A. No, sir.
Q. In what capacity did he act?
A. As boss.

Cross-ex. by Mr. WHITTEMORE:

Q. What are you doing now?

A. I am a merchant, a store-keeper for myself.
Q. Who asked you to come to this office?
A. I was requested by Mr. Reynolds.
Q. How long have you had conversations with Mr. Reynolds?
A. How long?
Q. Yes.
A. A very few minutes.
Q. How many conversations did you have with Mr. Reynolds?
A. Two.
Q. In regard to this case?
A. Yes, sir.
Q. When was the first conversation?
A. About a week ago.
Q. When was the last conversation?
A. About two days ago.
Q. How did Reynolds come to hold conversations with you?
A I cannot say.

Q. How did Mr. Reynolds find out about your existence?

313 A. Well, if I recollect right, I believe Mr. Reynolds told me that Mr. Marks told him about it. I was working with Marks in the store at the time.

Q. Reynolds had a conversation with Marks also?
A. Yes, sir.
Q. When did you first go to the store of John H. Adden?
A. In 1869.
Q. Whose sign was over the door?
A. It may have been 1869, in the fall, or two or three months' difference.
Q. Whose sign was over the door at 96 Magazine street?
A. John H. Adden.
Q. Whose sign was over the door when you quit?
A. John H. Adden & Co.
Q. Who was the Co. of John H. Adden?
A. Mr. Hufft.
Q. Was John Adden a partner of John H. Adden at 96 Magazine street? Answer and explain.
A. I don't know.
Q. Now make any explanation you like.
A. I don't know who was John H. Adden, neither did I know John Adden, but I looked upon John Adden as the boss.
Q. Was John H. Adden's sign over the door?
A. Yes, sir.
Q. Whose name were the books kept in—John H. Adden or John Adden?

314 A. The same name as was outside the door.

Q. Was Mr. Lane a partner of John H. Adden?
A. I cannot tell you that.

By Mr. BUTLER:

Q. What control or management of the business did John H. Adden take?

A. Well, he was there so little that I don't know what kind of business he had in it.

Q. Did he take any active management in the business while you were there?

A. He looked round at the boxes and at the shoes.

Q. That was while he was here?

A. Yes, sir.

Q. He was only here once, as far as you recollect, for any considerable time?

A. Yes, sir.

Q. During the balance of the time who managed the business here entirely? What two persons?

A. Mr. Hufft and John Adden.

Q. What had Lane to do with the business, and when was he here?

A. He was here every year.

Q. What interest did he represent in the business?

A. I cannot say. He bossed us also.

Q. Then there were John Lane, John Adden, and Mr. Hufft—all bosses?

A. Yes, sir.

315 Q. Did Mr. Lane ever sell any goods while you were there?

A. Yes, sir.

Counsel for John Adden object to any testimony as regards Lane as irrelevant.

This objection is to apply to all testimony given concerning John Lane.

Q. Who was Mr. Hufft when you were there, in that house?

A. He was at first manager.

Q. What interest had he in the house of John H. Adden?

A. What do you mean by interest?

Q. I mean what capital had he.

A. I don't know.

Q. Did you never see the books?

A. No, sir.

By Mr. WHITTEMORE:

Q. Whose names were printed on the bill-heads sent out?

A. J. H. Adden.

Q. Whose names were the licenses paid in?

A. The same party, J. H. Adden.

Q. Who attended to the business in Boston connected with 96 Magazine street?

A. J. H. Adden.

By Mr. BUTLER:

Q. What was the business in Boston that J. H. Adden attended to?

A. The factory.

316 Q. They had no store there?

A. I cannot say. I was not there.
Q. You don't know what he did in Boston?
A. No, sir; only the factory.
Q. How do you know that?
A. Because on the bill-heads was, "Factory, 122 Pearl street."
Q. Was that a factory or office?
A. That was the factory.
Q. You really don't know anything about it?
A. Nothing at all, except what I tell you I saw on the bill-heads.

Mr. Whittemore objects to all the above testimony as irrelevant.

THOMAS W. MÜLLER, called and sworn for the complainant, says:

By Mr. BUTLER:

Q. What is your business?
A. My business is porter and warehouseman in a store.
Q. Were you or not ever employed at work in the store No. 58 Custom-House street? If so, when, and by whom?
A. Yes, sir; at one time in July, 1882; in Mr. Reynolds' employment.
Q. At what were you employed?
A. I was employed to put the stock in order; to see to what needed blacking, brushing, and putting in order.
317 Q. Whom did you meet when you first went there under that employment, and what happened, if anything?
A. When I came there in the morning, a little after seven o'clock, Mr. Reynolds was there talking to the keeper, so when I came to the door Mr. Reynolds stood up and said, "Mr. Keeper, this is Mr. Muller, the gentleman that is come to take charge of the stock; to brush and clean it and see what it needs." So I went in, and as I took a chisel to open a box a gentleman, whom I was told was Mr. Weber, objected to it.
Q. Who was Mr. Weber?
A. I don't know.
Q. Whom did Mr. Weber tell you he was?

Mr. Whittemore objects.

A. He told me he was the book-keeper of the store.

Mr. Whittemore objects as hearsay and not binding on John Adden.

WITNESS: When I took the chisel Mr. Weber said he did not want anybody to touch anything. Mr. Reynolds asked him who was he, and he said he was the agent of Mr. Adden, and that he wanted to see an order from the sheriff before he would allow anything to be touched. So Mr. Reynolds went off, and I put on my coat again and sat down. So Mr. Reynolds came back with an order and gave it to the keeper, and he said it was all right. Then I went to work.
Q. How long did you work there?
A. I worked a month.

Q. Was George W. Weber there for a portion of the time you were there?

A. I cannot say whether it was George W. Weber or not.

Q. The Weber that was there that said he was the representative of Mr. Adden—how long was he there?

A. Two and a half weeks, or three, after I commenced to work there.

Q. Was he there during every day?

A. Yes, sir; every day.

Q. From what time to what time?

A. Sometimes from half past seven or eight in the morning until one o'clock, when he went to dinner, and came back again and stayed until five or half past five.

Q. And after three weeks he disappeared?

A. Yes, sir, he disappeared; and then I came to inquire where he was, and I was told he went to Boston by the keeper.

Mr. Whittemore objects to this as hearsay.

By Mr. WHITTEMORE:

Q. Was John Adden present when Mr. Weber said he was agent?

A. I cannot say.

Q. When he said he was agent it was agent of John H. Adden?

A. Well, he did not state what Adden. He said of Mr. Adden.

United States Circuit Court, Eastern Dist. of Louisiana.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.*
} No. 10405.

Testimony of J. M. B. Reynolds Cont'd.

Corrections to testimony taken before E. R. Hunt, Esqr., U. S. commissioner.

J. M. B. REYNOLDS, being duly sworn, says: If on page 17, line 11, in my testimony taken in the United States circuit court before E. R. Hunt, Esqr., U. S. com'r, I said 5758, I didn't intend to. I intended to say 5738.

On page 18, second line, instead of saying "the suit" I meant "the Smith suit."

On page 21, line 17, if I said "W. R. Morrison" I should have said "R. W. Morrison."

On page 25.—On page 25, where the question is, "What were the reasons which Mr. Parker gave for not joining you in these efforts to secure the property of the insolvent for the creditors?" I desire to answer as follows: "He said that if Batchelor (Butler) won other suits would go on, and there was no use in our taking any steps whatever."

Counsel for defendant, John Adden, makes same objection.

On page 70, line 21, I desire to substitute the words "Lancaster, New Hampshire," for the word "Boston."

On page 72, on lines 14 and 15, I desire to substitute the word "days" for the word "day."

On the last line of page 72 and first line of page 73 I desire to strike out the words "he was to give in a statement."

On page 93, line 6, I desire to strike out the words "at the general meeting."

On page 75, line 9, I desire to strike out the word "before."

On page 77, first line, I desire to substitute the word "say" for "so."

On pages 85 and 86, instead of the answer there given I desire to substitute the following answer: "He said it was not a bailable offense; that he (meaning Adden) was here under a subpœna. He was there, but his counsel was not there. Notice was served upon them. The messenger (magistrate) made a report that notice was handed to one of the counsel, who read it to the other, and they not coming, he, having waited until 5 o'clock, committed him (them)."

On page 86, line 14, I desire to substitute the word "heard" for "said."

On page 86, last line but one, I desire to substitute the words "was in" for the words "got into."

On page 94, line 3 from the bottom, I desire to substitute "1883" for "1882."

321 On page 95, last line, I desire to substitute the word "June" for the word "March."

On page 97, in the last answer on said page, I desire to substitute the words "I heard Judge Houston ask Mr. Butler if he would go on, and Mr. Butler said he would go on" instead of the words "I heard Mr. Butler ask Judge Houston if he should go on, and Judge Houston said he should go on."

Sheriff's inventory of contents of safe at 58 Custom-House street, in connection with *with* testimony of J. M. B. Reynolds, identified as correct. Copied at page 200 of this transcript.

322 *Testimony of E. S. Wurtzburger and William Walsh and Letter of Instructions as to Seizure and What Was Seized in Adden Suits.*

United States Circuit Court, Eastern District of Louisiana.

REYNOLDS, Assignee, *vs.* JOHN ADDEN *et als.* } No. 10405.

BATCHELOR & CO. *vs.* JOHN ADDEN *et als.* } No. 10406.

Testimony taken on behalf of complainant before Edward R. Hunt, United States commissioner, this 6th day of May, 1886.

Present: Frank N. Butler, Esq., for the complainant; E. N. Whittemore and C. S. Kellogg, Esqrs., for defendants.

WILLIAM WALSH, sworn on behalf of complainant, says:

By Mr. BUTLER:

Q. What is your official position, and how long have you occupied that position?

A. I am chief deputy of the civil sheriff, and have occupied that position twenty-one years next November.

Q. Please examine that document and state whether or not that is a copy of the inventory of the property which was held
323 under seizure by the sheriff in the suit of John Adden against John H. Adden, No. 5585 of the civil district court.

A. Yes, sir; that is a true copy of the inventory on file.

Mr. Butler offers in evidence document marked Walsh No. 1.

Q. That property was under seizure in several other suits, was it not?

A. Yes, sir.

Q. Look at this statement, now, marked Walsh No. 2 and state what it is and what it shows.

A. That is a full statement signed by the deputy sheriff in charge of the property at that time, showing what disposition was made of the property.

Q. State what, if any, efforts were made by the civil sheriff to secure the attendance of one George W. Weber as a witness when summoned in the suit referred to, in connection with the injunction proceedings sued out by J. M. B. Reynolds, assignee, and E. H. Batchelor & Co. against John H. Adden and the sheriff.

A. I know that strenuous efforts were made for a long time to secure that witness, Weber. I placed different officers at the disposal of Frank N. Butler, Esq., at different times, and also at the disposal of Mr. Butler's client—I forget his name now—when he was here from the North.

Q. Do you know whether the sheriff was able to secure the attendance of Weber in court as a witness under subpœnas in
324 the hands of the sheriff?

A. No, sir; he was not.

Q. Did you receive any instructions from the attorneys of John Adden in suit No. 5586 of the civil district court with reference to what you should seize under the attachment in that suit?

A. Yes, sir; the written instructions are attached to this writ.

Mr. Butler offers the instructions referred to in evidence.

Q. Was the seizure made in conformity to these instructions?

A. It appears so.

Cross-examined by Mr. WHITTEMORE:

Q. This exhibit marked Walsh No. 2 contains a full statement of everything seized in the various cases stated in it?

A. It contains a full statement of everything sold. I have not a doubt that includes everything seized. I have no recollection of any property unsold.

Q. The property was seized in the order stated in that list?

A. I have a memorandum of the dates when the several seizures were made, at the bottom of that list marked Walsh 2. They were just as is stated in that list.

Q. The seizure of Smith *versus* Adden was the first made?

A. Yes, sir.

Q. What date was it made?

A. March 8, 1882.

Q. When was the seizure in the case of Adden *vsrsus* Adden made?

325 A. March 16, 1882.

Q. Then, this property was already under seizure by Smith when the seizure by Adden was made?

A. Yes, sir.

Q. This inventory offered in evidence by Mr. Butler is a complete list of everything seized, is it?

A. Yes, sir; everything that the sheriff got possession of.

Q. What is the net balance in your hands that is now in controversy?

A. $4,848.88.

By Mr. BUTLER:

Q. That is after deducting all expenses incurred in the seizure and keeping this property during the pendency of this litigation?

A. Yes, sir; that is the net balance after deducting all costs paid out.

Q. Please state the amount of costs.

A. Well, this paper marked Walsh No. 2 gives a statement of all costs.

By Mr. WHITTEMORE:

Q. A large portion of the cost was incurred in the case of Smith against Adden?

A. Well, Smith's was the first case, but a large portion of the costs was for the keeping of the property. I do not know what case you would put that to, but the costs started in the suit of Smith.

Letter of instructions as to seizure copied at page 199 of this transcript.

326 *Inventory of Store # 58 Custom-House Street, N. O.*

No. 1.

"Walsh No. 1."

11379	12	pair-	Hard-pan	boots,	pegged,	men's		21	
11328	"	"	"	"	"	"		21	
11332	"	"	B. wax	"	"	"		26	
11333	"	"	"	"	"	"		26	
11172	"	"	"	"	"	"		27	
10505	"	"	Advance	"	"	"		22	
10506	"	"	"	"	"	"		22	
11301	"	"	B. calf	"	"	"		33	
11341	"	"	"	"	"	"		33	
11340	"	"	"	"	"	"		33	
11383	9	"	"	"	"	"		33	
11408	12	"	Claremont	"	"	"		23	
11409	"	"	"	"	"	"		23	50
11391	"	"	"	"	"	"		23	50
11392	"	"	"	"	"	"		23	50
11368	"	"	"	"	"	"		23	50
11367	"	"	"	"	"	"		23	50
9285	"	"	Knights of Malta's	boots,	pegged,	men's		33	
11470	"	"	Claremont		"	"	"	23	50
11154	"	"	super grain		"	"	"		
11122	"	"	"		"	"	"	30	
11123	"	"	"		"	"	"	30	
11020	"	"	super wax		"	"	"	30	
11170	"	"	Hard-pan		"	"	"	23	
11171	"	"	"		"	"	"	23	
11255	"	"	"		"	"	"	23	
11216	"	"	"		"	"	"	23	
11150	"	"	"		"	"	"	23	

327 No. 2.

11369	12	pairs	Claremont	pegged	boots,	men's	23	50
9101	"	"	Southern*	"	"	"	31	
11112	"	"	Claremont	"	"	"	25	50
11111	"	"	"	"	"	"	25	50
11119	"	"	"	"	"	"	25	50

11124	12 pairs	Claremont	pegged	boots,	men's		25	50
10977	" "	"	"	"	"		25	50
11046	" "	"	"	"	"		25	50
11110	" "	"	"	"	"		25	50
Nash	" "	Magnolia	"	"	"			
10961	" "	Claremont	"	"	"		25	50
10960	" "	"	"	"	"		25	50
10976	" "	"	"	"	"		25	50
11027	" "	"	"	"	"		25	50
11030	" "	"	"	"	"		25	50
11179	" "	Sanseam	"	"	"		27	
11226	" "	"	"	"	"		27	
11223	"	"	"	"	"		27	
11224	"	"	"	"	"		27	
11287	"	"	"	"	"		27	
11303	"	"	"	"	"		27	
10570	"	veal calf	"	"	youth		10	
10604	"	"	"	"	"		10	
11308	"	Hard-pan	"	"	"		13	
11307	"	"	"	"	"		13	
11529	"	wax brogans	"	"	boys		45	
11530	"	"	"	"	"			
11528	"	"	"	"	"			

328 No. 3.

10514	12 pairs	buff opera	sewed	boots,	men's		29	
10878	" "	"	"	"	"		29	
10515	" "	"	"	"	"		29	
10880	" "	"	"	"	"		29	
10881	" "	"	"	"	"		29	
10981	" "	"	"	"	"		28	
11507	" "	"	"	"	"		28	
10994	" "	"	"	"	"		26	50
10870	" "	"	"	"	"		26	50
10868	" "	"	"	"	"		26	50
10513	" "	"	"	"	"		29	
10921	" "	buff D D	"	"	"		28	50
11040	" "	"	"	"	"		25	50
10978	" "	"	"	"	"		25	50
10973	" "	"	"	"	"		26	50
9526	" "	calf	"	"	"		32	
9698	" "	"	"	"	"		32	
9747	" "	"	"	"	"		32	
9539	" "	"	"	"	"		32	
11125	" "	grain Napoleon	screwed	boots,	men's		30	
11128	" "	"	"	"	"		30	
11129	" "	"	"	"	"		30	
10872	" "	buff	sewed	"	"		25	50
11039	" "	"	"	"	"		25	50
10979	" "	"	"	"	"		25	50

11074	12	pairs buff sewed boots, men's	25	50
11075	"	" " " " "	25	50
9558	"	" calf " " "	26	

329 No. 4.

9564	12	pairs calf sewed boots, men's	26	
9559	"	" " " "	26	
9560	"	" " " "	26	
9563	"	" " " "	26	
11076	"	" buff " "	25	50
9946	"	" " pegged boots, "	25	50
11102	"	" Pontotoc calf sewed boots, men's	28	
11205	"	" buff Texas pegged " "	30	
11312	"	" " " " "	30	
11387	"	" " " " "	30	
11362	"	" Bon Ton calf screwed " "	28	
11359	"	" " " " "	28	
11357	"	" " " " "	28	
11358	"	" " " " "	28	
11360	"	" " " " "	28	
11516	"	" Pompadour calf " " "	27	
11517	"	" " " " "	27	
11518	"	" " " " "	27	
11519	"	" " " " "	27	
11520	"	" " " " "	27	
11441	"	" calf nailed " "	33	
11105	"	" " Little Jem sewed " boys'	15	
11109	"	" " " " " "	15	
10900	"	" Planters' Grain pegged " men's	26	50
10901	"	" " " " " "	26	50
11007	"	" " " " " "	26	50
10899	"	" " " " " "	26	50
9016	"	" " " " " "	26	50

330 No. 5.

10860	12	pairs Planters' Grain pegged boots, men's	26	50
10520	"	" " " " "	26	50
11136	"	" " " " "	26	50
10206	8	" kipp nailed shoes, "	14	80
11446	12	" " " "	22	20
11446	"	" " " "	22	20
11249	24	" " " brogans, "	42	
11250	12	" " " " "	21	
11257	24	" " " " "	42	
11494	"	" " " " "	42	
11459	"	" " " " "	42	
11457	"	" " " " "	42	
11385	"	" " " " "	42	
11437	"	" " " " "	42	
11493	"	" " " " "	42	

10920	24	pairs	kipp	plow	pegged	shoes,	men's		27	60
11048	36	"	"	"	"	"	"		41	40
10652	"	"	russet	"	"	"	"		41	40
10653	12	"	"	"	"	"	"		13	80
10650	36	"	"	"	"	"	"		41	40
10647	"	"	"	"	"	"	"		41	40
10649	18	"	"	"	"	"	"		21	60
10646	36	"	"	"	"	"	"		43	20
10651	36	"	"	"	"	"	"		41	40
8820	"	"	grain	"	"	"	"		49	50
9652	"	"	"	"	"	"	"		36	
11546	60	"	waxed	brogans,	"		boys'		45	
11531	52	"	"	"	"		"		39	

331 No. 6.

11068	60	pairs	wax	brogans,	pegged,	boys'			43	50
11263	"	"	"	"	"	"			43	50
11349	"	"	"	"	"	"			43	50
11521	"	"	"	"	"	"			45	
11522	"	"	"	"	"	"			45	
10841	25	"	"	"	"	"			18	13
11228	48	"	"	"	"	men's			48	
11143	60	"	"	"	"	"			60	
10703	12	"	"	"	"	"			14	40
11261	60	"	"	"	"	"			54	
11158	"	"	"	"	"	"			60	
11159	29	"	"	"	"	"			29	
11537	60	"	"	"	"	"			54	
11538	"	"	"	"	"	"			54	
10702	30	"	"	"	"	"			36	
11167	60	"	"	"	"	"			54	
11166	24	"	kipp	"	"	"			21	60
11165	60	"	"	"	"	"			54	
11146	24	"	"	"	"	"			21	60
11398	60	"	"	"	"	"			54	
11396	"	"	"	"	"	"			54	
9397	24	"	split	"	"	"			18	
9461	60	"	"	"	"	"			72	
9400	12	"	"	"	"	"			9	
10610	36	"	russet	plow	shoes,	pegged,	boys'		43	20
10648	"	"	"	"	"	"	"		43	20
8816	24	"	"	brogans,	"	"	"		23	62
8806	60	"	"	"	"	"	"		73	50

332 No. 7.

10148	12	pairs	buff	Prince	Albert	sewed	shoes,	men's	15	60
10155	24	"	"	"	"	"	"	"	31	20
10149	"	"	"	"	"	"	"	"	31	20
10214	"	"	"	"	"	"	"	"	31	20
10212	14	"	"	"	"	"	"	"	18	20
8436	12	"	"	"	"	"	"	"	16	80

10295	24	pairs	buff Prince Albert sewed			shoes,	men's	31	80
10354	"	"	Plefmas,		"	"	"	31	80
10304	"	"	"		"	"	"	34	20
10303	"	"	"		"	"	"	34	20
8520	"	"	Prince Albert buff,	nail	"	"	boy's	28	80
9644	12	"	Congress		"	"	"	15	60
9616	21	"	"		"	"	"	27	30
9816	30	"	"		"	"	"	39	
10292	"	"	strip ties	sewed		"	men's	41	25
9906	24	"	Don Pedro	pegged		"	"	30	
9909	"	"	"	"		"	"	30	
9907	"	"	"	"		"	"	30	
9985	"	"	"	"		"	"	44	40
9984	23	"	"	"		"	"	25	20
9637	12	"	Congress buff	nailed		"	"	36	80
11184	24	"	"	"	pegged	"	"	13	50
11267	24	"	"	"	"	"	"	27	
11161	"	"	"	"	"	"	"	27	
11183	"	"	"	"	sewed	"	"	30	
11162	"	"	"	"	"	"	"	30	
11079	"	"	"	"	"	"	"	30	
11034	"	"	"	"	"	"	"	31	80

333 No. 8.

10984	24	pairs	buff Congress	sewed		shoes,	men's	30	
10983	"	"	"	"		"	"	30	
11131	"	"	"	"		"	"	31	80
11077	"	"	"	"		"	"	31	80
11181	"	"	"	"		"	"	31	80
11372	"	"	" lace	"		"	"	31	80
11373	"	"	" "	"		"	"	31	80
11232	"	"	" grain	"		"	"	30	
11187	"	"	" "	"		"	"	30	
11186	"	"	" "	"		"	"	30	
10928	"	"	" "	"		"	"	30	
9665	12	"	buff Union ties,			"	"	17	10
9666	24	"	" "	"		"	"	34	20
9568	24	"	Washington ties,			"	"	27	60
9608	23	"	"			"	"	26	45
9565	24	"	"			"	"	27	60
9567	24	"	"			"	"	27	60
9416	23	"	"			"	"	26	45
16	12	"	P. calf brogans,	nailed		"	"	15	
7290	12	"	"	pegged		"	"	13	80
8154	24	"	"	"		"	"	27	60
9217	24	"	"	"		"	"	28	80
8783	"	"	"	"		"	"	28	80
8782	"	"	"	"		"	"	28	80
11141	12	"	"	nail		"	"	14	40
5	12	"	"	"		"	"	6	25
10450	24	"	Georgia ties,			"	"	30	
10454	24	"	"	"		"	"	30	

334 No. 9.

10232	24	pairs	Georgia calf ties,	nail	shoes,	men's	31	20
9272	"	"	"	"	"	"	30	60
10054	"	"	buff Georgia ties,	"	"	"	31	20
17	14	"	calf brogans, pegged	shoes,	"	"	15	40
28	12	"	"	"	"	"	13	20
29	24	"	"	"	"	"	30	
27	"	"	"	"	"	"	30	
25	"	"	"	"	"	"	30	
26	12	"	"	"	"	"	15	
9594	"	"	"	"	"	"		
11236	24	"	"	"	"	"	26	40
10683	"	"	"	"	"	"	26	40
10684	"	"	"	"	"	"	26	40
10451	"	"	"	"	"	"	26	40
9785	"	"	"	"	"	"	26	40
10248	"	"	"	"	"	"	26	40
11139	"	"	"	"	"	"	28	80
11138	"	"	"	"	"	"	28	80
10448	"	"	"	"	"	"	24	
10460	"	"	"	"	"	"	24	
10249	"	"	"	"	"	"	24	
11142	12	"	"	"	"	"	14	40
11141	24	"	"	"	"	"	28	80
11211	"	"	"	"	"	"	24	
10849	"	"	"	"	"	"	24	
10459	"	"	"	"	"	"	24	
10848	"	"	"	"	"	"	24	
11210	"	"	"	"	"	"	24	

335 No. 10.

11238	24	pairs	calf brogans,	pegged,	men's		24	
11374	"	"	"	"	"		24	
11375	"	"	"	"	"		24	
11463	"	"	"	"	"		22	80
11462	"	"	"	"	"		22	80
1104	"	"	"	"	"			
11064	"	"	"	nailed,	"		30	
11069	"	"	"	"	"		30	
11474	12	"	buff Bismark,	"	"		22	20
11258	24	"	"	"	"		44	40
11415	12	"	"	"	"		22	20
11116	6	"	"	"	"		11	10
11481	24	"	"	"	"		44	40
11482	"	"	"	"	"		44	40
11277	"	"	"	"	"		44	40
11276	"	"	"	"	"		44	40
11235	"	"	calf brogans,	pegged	"		26	40
11237	"	"	"	"	"		26	40

10825	60	pairs	grain	Poker, nailed, women	57
10826	"	"	"	" "	57
10851	"	"	"	" "	52 50
10907	12	"	"	" "	11 40
10904	24	"	"	pegged, "	22 80
10888	60	"	"	" "	57
8757	"	"	"	" "	69
9257	"	"	"	" "	69
9258	"	"	"	" "	69
8328	"	"	"	" "	70 50

336 No. 11.

8139	60	pairs	grain	Poker, pegged, women's	70 50
7259	36	"	"	" " "	36
9500	28	"	"	" " "	30 10
9481	42	"	"	Sunflower, " "	46 20
9480	60	"	"	" " "	66
11134	"	"	"	Poker, " "	60
11148	"	"	"	" " "	60
10659	24	"	"	" " "	24
11536	12	"	"	" " "	9 60
5910	48	"	kipp	" " "	43 20
5526	36	"	"	" " "	36
10906	"	"	grain	" nail, "	29 70
9253	60	"	"	Sunflower, pegged, "	60
9532	"	"	"	" " "	60
10434	"	"	veal calf	Poker, " "	45
8997	21	"	kipp	" " "	16 28
4519	40	"	buff	" " "	
11533	60	"	grain	" " "	48
11478	24	"	"	split " " "	16 80
11476	48	"	"	" " " "	30
10605	12	"	"	" " " "	7 20
11418	"	"	"	" " " "	9 30
11532	60	"	"	" " " "	52 50
11535	"	"	"	" " " "	48
10424	"	"	veal calf	" " "	42
10437	"	"	"	" " "	42
11440	"	"	grain	" " misses'	45
10629	"	"	"	" " "	48

337 No. 12.

10661	60	pairs	grain	Poker, pegged, misses'	48
10588	"	"	"	" "	48
8408	"	"	"	" "	58 50
9260	"	"	"	" "	63
8756	13	"	"	" "	12 67
8760	60	"	"	" "	58 50
11189	11	"	calf	Bismark, nail, men's	23 65
11212	14	"	"	" " "	39 90
11461	14	"	"	" " "	30 10

11460	16	pairs	calf Bismark,	nail,	men's			34	40
11300	24	"	"	"	"			51	60
11316	24	"	grain lace Congress,	nail,	men's			30	
11315	"	"	"	"	"	"		30	
11527	"	"	calf brogans, pegged,			"		26	40
Nash	12	"	"	"		"			
11455	60	"	veal calf Poker C. T.,	pegged,		children			
10440	"	"	"	"		"	"	36	
10456	36	"	"	"		"	"	19	80
10765	120	"	eyelet kid C. T.,			"	"	54	00
9264	48	"	grain "			"	"	40	80
9266	36	"	" "			"	"	29	70
10423	"	"	veal calf C. T.,			"	"	18	
10697	120	"	eyelet kid "			"	"	54	
10479	96	"	grain "			"	"		
10688	72	"	eyelet kid			"	"	41	40
10522	6	"	" "			"	"	3	15
10419	120	"	" "			"	"	63	
10965	12	"	calf,			"	boys'	9	

338 No. 13.

10686	12	pairs	calf C. T.,	pegged,	boys'			9	60
11399	24	"	"	"				18	
11404		"	"	"				19	20

Continued from second floor:

10342	36	pairs	Newport ties, surgi,	sewed,	ladies'			36	
10347	12	"	"	"	"			9	60
10337	"	"	"	"	"			7	80
10224	36	"	"	"	"			41	40
8358	"	"	kid Pinafore,			"		50	40
8331	33	"	"	"		"		16	50
9241	24	"	" button boots'			"	infants'	4	80
10754	12	"	" colored "			"	children	5	70
11468	"	"	" "	"		"		6	
11469	60	"	goat, bott's,			"		30	
11502	36	"	gid foxed,			"		19	80
11515	60	"	colored kid foxed,			"		27	
11544	34	"	ladies' g-ove Congress,			"	ladies'	51	

On third floor:

11542	24	pairs	Bismark buff Congress,	nail,	men's			44	40
11549	"	"	"	"	"	"	"	44	40
11551	"	"	"	"	"	"	"	44	40
11548	"	"	"	"	"	"	"	44	40
11540	"	"	"	"	"	"	"	51	60
11543	"	"	"	"	"	"	"	44	40
11541	"	"	"	"	"	"	"	44	40
11550	"	"	"	"	"	"	"	44	40
11552	"	"	"	"	"	"	"	44	40
11447	"	"	"	"	"	"	"	42	

339 No. 14.

11364	24	pairs	Bismark	buff	Congress,	nail,	men's		44	40
11365	"	"	"	"	"	"	"		44	40
11278	"	"	"	"	"	"	"		44	40
11299	"	"	"	"	"	"	"		44	40
11386	"	"	"	"	"	"	"		44	40
11524	"	"	"	"	"	"	"		44	40
11514	"	"	"	"	"	"	"		44	40
11496	"	"	"	"	"	"	"		44	40
11523	"	"	"	"	"	"	"		44	40
11350	"	"	"	"	"	"	"		44	40
11351	"	"	"	"	"	"	"		44	40
11449	"	"	calf		"	"	"		5160	
11448	"	"	"			"	"		51	60
10792	"	"	"	pegged,			"		24	
10794	"	"	"	"			"		26	40
11309	12	"	buff	boots,	"		"		30	
11310	"	"	"	"	"		"		30	
11311	"	"	"	"	"		"		30	
11313	"	"	"	"	"		"		30	
11320	"	"	Sanseam,		nail,		"		27	
11321	"	"	"	"	"		"		27	
11273	"	"	"	"	"		"		27	
11304	"	"	"	"	"		"		27	
11319	"	"	"	"	"		"		27	
11296	"	"	"	"	pegged,		"		27	
11322	"	"	"	"	"		"		27	
11225	"	"	"	"	"		"		27	
11222	"	"	"	"	"		"		27	

340 No. 15.

11329	12	pairs	Hard-pan	boots,	nail,	men's		21	
11270	"	"	"	"	"	"		23	
11269	"	"	"	"	"	"		23	
11379	"	"	"	"	pegged,	"		23	50

Continued from second floor:

6222	12	pairs	kid	lace,	sewed,	ladies'		10	80
10624	"	"	"	"	"	"		12	
10621	"	"	"	"	"	"		12	
10623	"	"	"	"	"	"		12	
10625	"	"	"	"	"	"		12	
11473	"	"	"	"	"	"		16	80
8202	23	"	*plebel*	"	"	"		32	20
11113	36	"	glove	"	"	"		38	70
11045	12	"	"	"	"	"			
11082	12	"	"	"	"	"		12	
11489	24	"	"	"	"	"		27	60
10830	"	"	"	"	Congress,	"		29	40
10805	36	"	"	"	"	"		44	10

9755	12 pairs	grain boots, nail, ladies'	14	40
9126	36 "	" " sewed, "	48	60
9124	48 "	" " " "	55	20
11504	12 "	kidd " " "	14	10
11505	36 "	" " " " "	51	30
11506	" "	" " " " "	51	30
11503	" "	" " " " "	45	
11272	10 "	" " " " "		
11366	12 "	" fox " " "	23	40
11512	60 "	" " " " "	117	
11453	" "	" " " " "	117	

341 No. 16.

11545	48 pairs	glove Congress, sewed, ladies'	72	
10985	24 "	kidd " fox, sewed, ladies'	19	20
10267	" "	" " " " " "	22	20
10964	60 "	" " " " " "	52	50
10963	36 "	" " " " " "	31	50
10931	" "	" " " " " "	36	
11487	60 "	" " " " " "	55	50
11488	36 "	" " " " " "	33	30
9679	12 "	" " " lace, sewed, ladies'	10	80
10532	60 "	" " " " " " "	51	
10530	48 "	" " " " " " "	40	80
10414	56 "	" " " " " " "	81	20
10412	24 "	" " " " " " "	34	80
10415	" "	" " " " " " "	34	80
10749	44 "	" " " " " " "	66	
10865	12 "	" " " " " " "		
11093	48 "	" " " " " "	79	20
10275	12 "	" " " " " "	15	
10277	" "	" " " " " "	15	
8516	" "	" " " " " " misses'	15	30
8530	13 "	" " " " " " ladies'	17	22
8441	12 "	goat fox, " "	15	90
8531	" "	" " L. boots, " misses'	17	70
10309	23 "	kidd " " " ladies'	33	35
6469	12 "	goat " " nail	16	80
7984	4 "	" " " "		
11486	36 "	ladies' surgi boots, sewed,	42	30
10169	24 "	" " " " "	27	

342 No. 17.

10247	12 pairs	surgi boots, sewed, ladies'	13	50
10279	21 "	" " "	13	50
10258	11 "	" " "	27	60
7229	60 "	" " " "	11	55
10693	12 "	" Bell's boots, sewed, ladies'	34	50
9674	12 "	" " " "	7	20
10167	24 "	" " " "	15	

10221	12	pairs	surgi Bell's boots, sewed, ladies'	8 40
9736	60	"	" " " " "	45
10690	48	"	" " " " "	24
11497	12	"	kid foxed boots, sewed, ladies'	10 50
11498	36	"	" " " " "	34 20
72	24	"	surgi " " "	
11317	48	"	Congress, sewed, "	60
11554	60	"	" " "	76 50
10078	11	"	" " "	14 03
10174	23	"	" " "	29 33
10114	24	"	" " "	30 60
10229	60	"	" " "	76 50
10125	10	"	" " "	12 75
10397	48	"	" " "	61 20
10362	60	"	" " "	76 50
10663	"	"	" " "	
10251	24	"	" " "	18 60
9484	"	"	" " "	27
8488	12	"	" " "	14 70
8369	14	"	" " "	16 10
10225	36	"	" " "	41 40

343 No. 18.

10862	24	pairs	surgi Congress, sewed ladies'	
8512	11	"	" " " " "	13 48
10204	60	"	Tampico boot-, nail, men's	75
10139	36	"	" " " "	41 40
10201	"	"	grain " " misses'	40 50
10243	24	"	" " " "	27 60
10081	60	"	" " " "	72
10141	36	"	Tampico " " "	39 60
10140	"	"	" " " ladies'	43 20
9986	"	"	" " " "	43 20
10080	"	"	" " " "	43 20
10079	18	"	" " " "	21 60
10193	36	"	" " " "	43 20
11421	12	"	kid foxed " sewed, "	18
11253	5	"	" " " "	7 25
11298	60	"	goat foxed Congress, sewed, ladies'	87
11413	"	"	" " " " " "	87
11455	24	"	kid foxed boots, " "	30
11454	36	"	" " " " "	45
11457	"	"	" " " " "	50 40
11467	47	"	" " Congress, nail, "	
11500	72	"	" " boots, sewed, children	46 80
11485	59	"	" " " " "	47 20
11488	36	"	" " " " "	
11471	60	"	" " " " "	52 50
11483	"	"	" " " " "	46 50
11499	"	"	" " " " "	51
11501	58	"	" " " " "	42 05

344 No. 19.

11428	60	pairs	goat	slippers,	sewed,	men's		48	
11432	"	"	"	"	"	"		46	50
11344	33	"	"	"	"	"		26	40
11434	48	"	carpet	"	"	"		18	
7318	60	"	"	"	"	"		36	
11343	"	"	grain	"	"	"		48	
11241	"	"	"	"	"	"		48	
11240	58	"	"	"	"	"		46	40
11275	60	"	"	"	Burkin,	ladies'		30	
11274	"	"	"	"	"	"		30	
11198	24	"	"	Burkin	"	misses'		13	20
11199	60	"	"	"	"	ladies'		33	
7269	10	"	kid,	Newport	lace,	"		5	25
6806	23	"	"	"	"	"		32	20
6655	12	"	"	"	"	"		12	
8277	8	"	"	"	"	"		10	80
8316	9	"	"	"	"	"		12	15
8385	10	"	"	"	"	"		14	
10299	12	"	"	"	"	"		12	
8351	36	"	"	"	"	"		50	40
73	12	"	"	"	"	"			
8453	59	"	goat	double	gipsey	"		53	10
8452	24	"	kid,	"	"	"		21	60
8275	23	"	"	"	"	misses'		17	25
8359	21	"	"	soled,	Pinafore,	ladies'		31	50
8357	22	"	"	"	velvet-button	boot,	ladies	29	70
10348	12	"	Newport	ties,	"	"	"	9	60

345 One scale.
" clock.
One iron safe.
" cop-ing press.
" chest.
" lot empty cases.
" stove.
Three chairs.
Two trucks.
Five desks (two claimed).
One lot wrapping paper.
One trunk containing odd shoes & boots.
" lot empty trunks.
" " hoops.
" " " in traugh.
One lot counters.

346 I hereby certify that the foregoing is a true *true* copy from the inventory book of this office and contains a complete list of all the articles and effects which came into the sheriff's hands under the writ of attachment and the writ of *fieri facias*, issued in the suit of John Adden *vs.* John H. Adden, No. 5586, civil district

court, parish of Orleans, except the articles which were found in the iron safe at No. 58 Custom-House street, which articles are detailed in a separate inventory, a copy of which has been heretofore furnished the counsel for J. M. B. Reynolds, assignee of John H. Adden.

New Orleans, May 6th, 1884.

(Signed) WM. WALSH, *Dep. Sh'ff.*

Inventory of contents of safe at 58 Custom-House street, copied at page 200 of this transcript.

347 E. S. WURTZBURGER, sworn on behalf of complainant, says:

By Mr. BUTLER:

Q. What is your official position?

A. I have been chief deputy marshal for the last nine years.

Q. State whether or not any effort was made by the marshal's office to secure the attendance of George W. Weber as a witness summoned by the plaintiff, Reynolds, assignee, and Batchelor & Co. in their suit against John Adden and others, No-. 10404 and 10405 of this court.

A. There were very zealous efforts made.

Q. With what success?

A. None up to this time; I cannot find the man yet. There were various reports of his having gone to Central America and up the railroad.

Q. Did you not endeavor to secure his attendance by attachment process of this court?

A. Yes, sir; I have two attachments. One I sent out in November, 1885. The first one was addressed to the previous marshal, and I had it for months in the hands of a special officer. Deputy Simmonds reported to me that he watched the house night after night. Mr. Baker has the attachment in his hands now, and he has reported to me that he cannot find him either.

Mr. BUTLER: I offered, on a previous examination, to be produced, a certified copy of the schedules of debts, liabilities, and assets
348 in the insolvency proceeding of John H. Adden, which I did not then have, but which I now produce and offer, marked in this exhibit Adden No. 1.

Mr. Whittemore, for defendant, objects as being *res inter alios acta* and irrelevant.

Mr. Butler also offers a certified copy from the insolvency proceedings of Daymon, Temple & Co., showing the appointment, notice of appointment, and acceptance of John Adden, of Reading, Massachusetts, as assignee of said estate.

Mr. Whitemore objects—

1st. As being *res inter alios acta.*

2d. As irrelevant.

3rd. Too late.

4th. That it seeks to reopen and revive the issue as to the resi-

dence and citizenship of John Adden and to elicit evidence as to said residence and citizenship, which issue has been closed and determined by the decree of this court on the motion to remand the above case.

Mr. Butler also offers in evidence the testimony of Ambrose Eastman taken under commission, produced and filed in this court on January 2d, 1886.

Mr. Whittemore objects upon the grounds—

First. That it is too late.

2d. That it seeks to reopen and revive the issue as to the residence and citizenship of John Adden and to elicit evidence as to
349 such residence and citizenship, which issue has been closed and determined by this court by decree on the motion to remand the above case.

3d. That said testimony seeks to contradict the testimony of John Adden, the plaintiff's own witness, as to said residence and citizenship, and which testimony as to said residence and citizenship was put in evidence on the trial of the said motion to remand.

4th. That said testimony seeks to impeach the said testimony of the said John Adden as to such residence and citizenship without plaintiff having called said John Adden's attention to his supposed statement under oath before the probate court of insolvency for the county of Middlesex, at Cambridge, and without plaintiff having asked the said John Aden if he made such statements, and without plaintiff having given said John Adden an opportunity to deny or explain said statement, although plaintiff had the opportunity of doing all of the above when he had the said John Adden on the witness stand, and he gave his testimony, which was put in evidence on the motion to remand.

5th. He further objects to said commission and interrogatories and depositions upon the same grounds urged and the objections set forth in a paper containing the cross-interrogatories propounded to the witnesses and annexed to said commission.

Mr. Butler also offers in evidence the affidavit made by the witness, Ambrose Eastman, under date of April 29, 1882, and another affidavit of the same date, made by Walter M. Mason, since
350 deceased, to prove that such affidavits were made of the facts set forth therein on the date referred to.

Mr. Whittemore objects—

1st. That the said affidavits are *ex parte.*

2d. That the defendant, John Adden, had no opportunity to cross-examine the affiants.

3d. That said affidavits are *res inter alios acta.*

4th. That the said affidavits are not certified according to law, no proof of the signatures of the affiants and no proof of the signatures and capacity of the persons pretending to attest said affidavits.

5th. The same objections that were urged to the foregoing commission, interrogatories, and testimony.

Mr. Butler next offers and produces the published statutes of Massachusetts for 1882, from which he specially offers section 1 of chap. 143, page 801.

Sections 1 and 2, chap. 157, pages 879 and 880; section 46 of chap. 157, page 886.

Mr. Whittemore objects on the grounds already urged, and that they are irrelevant.

Mr. Butler here states:

Owing to the objection made by counsel of John Adden on page 70 of the testimony of J. M. B. Reynolds herein, taken on the 23 April, 1884, to the effect that the statements of said witness relative to the alleged sayings of John Adden made by him on the witness stand were not admissible because they were not the best evidence, and did not affect — and contend that the best evidence was the evi-
dence given by John Adden himself, I now offer from the
351 testimony of John Adden, taken under commission herein, the following extracts only.

Mr. Whittemore objects to any extracts from the testimony of John Adden being put in evidence by the plaintiff on the ground that in the testimony taken under commission John Adden was the plaintiff's own witness, and if the plaintiff desires to offer any portion of the testimony taken under said commission he must offer the whole.

Mr. Butler offers pages 5, 6, 13, and 17 of the testimony taken on March 30, 1883.

He also offers pages 3, 5, 6, 7, 45, 47, 49, 58, 61, and 62 of John Adden's testimony, taken on March 31, 1883.

He also offers pages 30, 31, 46, 49, 50, 52, and 69 of the testimony of John Adden, taken on the 10th April, 1883, under said commission.

He also offers pages 46, 49, 58, 70, 71, 109, 112, 114, 115, 241, 242, 243, 244, 245, 246 of the testimony of John Adden, taken on the 31 March, 1883.

352 *Copy of Schedule on Insolvency of John H. Adden, Showing John Adden as of Reading, Mass.*

COMMONWEALTH OF MASSACHUSETTS, *Middlesex*, } *ss:*

I, George M. Brooks, judge of the court of insolvency within and for the county of Middlesex, hereby certify that Joseph H. Tyler, whose signature is affixed to the annexed certificate, is the register and proper certifying officer of said court of insolvency, and has by law the custody of the seal and all the records, books, documents, and papers of or appertaining to said court of insolvency, and said certificate is in due form as used in this Commonwealth.

In witness whereof I have hereunto set my hand this eighteenth day of April, in the year of our Lord eighteen hundred and eighty-five.

(Signed) GEORGE M. BROOKS,
Judge of Court of Insolvency.

353 COMMONWEALTH OF MASSACHUSETTS, *Middlesex*, } *ss:*

[SEAL] Court of Insolvency.

I, Joseph H. Tyler, register of the court of insolvency for said county of Middlesex, having by law the custody of the seal and all the records, books, documents, and papers of or appertaining to said court, hereby certify the papers hereto annexed to be true copies of the schedules of creditors and property, the inventory, and the lists of debts proved, and an entire transcript of the docket record in the case of John H. Adden, of Reading, in said county, an insolvent debtor, on file in said court and of record.

In witness whereof I have hereunto set my hand and the seal of said court this eighteenth day of April, in the year of our Lord one thousand eight hundred and eighty-five.

(Signed) JOSEPH H. TYLER, *Register.*

This schedule is to be filled up, signed, sworn to, and filed with the register by the debtor within five days after date of the warrant, and a copy thereof delivered to the messenger within three days.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex, ss:* Court of Insolvency.

Schedule of the Creditors of John H. Adden, of Reading, in the County of Middlesex and Commonwealth of Massachusetts, Insolvent Debtor.

354 Names of creditors.	Residence.	Nature of debt.	Consideration.	Security.	Amount.
Nichols & Farnsworth	Boston, Mass.	Notes & acc'ts	Mdse.	None	1,191 83
J. R. Leeser & Co.	" "	"	"	"	18 45
Hough & Rummey	" "	"	"	"	14 31
E. A. Smith & Bros	" "	"	"	"	1,329 30
E. Rollins, Jr.	Wolner, "	"	"	"	18 79
Boynton & Bancroft	Lynn, "	"	"	"	195 30
L. Lessergey	Pembroke, "	"	"	"	27 00
Wm. Mather	Winchester, "	"	"	"	58 40
Hone, Gallupe & Co.	Boston, "	"	"	"	12 00
Geo. H. Ashman	Lynn, "	"	"	"	8 13
David Knox	" "	"	"	"	20 13
Cutler & Wallier M'f'g Co.	Lowell, "	"	"	"	10 25
Seavey, Foster & Bowman	Boston, "	"	"	"	19 25
Josiah S. Tubley	N. York city	"	"	"	805 71
Abington Sach. Mach. Ass'n	Abington, Mass.	"	"	"	67 45
Buchanan & Dow	Boston, "	"	"	"	51 10
O. F. Bilcher	" "	"	"	"	54 00
Lucius Beche & Sons	" "	"	"	"	684 60
Mace & Kyes	" "	"	"	"	5 08
J. P. Trimley & Co.	" "	"	"	"	10 66
B. T. Nash	Abington, "	Note &	"	"	1,434 62
Wallace & Macomber	Boston, "	"	"	"	280 80
S. A Whicher & Co.	" "	"	"	"	662 00
Chase, Merritt & Blanchard	" "	"	"	"	846 57
L. S. Jefts	" "	Note &	"	"	1,516 20
Micael Nash	Abington, "	"	"	"	84
355 Pierce & Son	Boston, "	Note & acc't	"	"	513 00
C. O. McLean & Co.	Haverhill, "	"	"	"	210 30
Parker, Briggs & Co.	Auburn, Me.	"	"	"	13 14
C. W. Hackell	Lynn, Mass.	"	"	"	493 07
C. B. Lancaster	Boston, "	Note &	"	"	2,750 58

Kimball Brothers	Lynn, "	"	"	"	1,349 60
R. Crane	Hanover, "	Note &	"	"	2,131 70
A. McDuffie	Haverhill, "	"	"	"	112 56
R. C. Keith & Bro.	East Bridgewater, Mass.	"	"	"	877 20
E. & A. H. Batcheller & Co.	Boston, Mass.	Notes	"	"	10,488 00
R. W. Emerson & Co.	" "	" & acc't	"	"	2,986 80
Fred. Jones & Co.	" "	" " "	"	"	1,589 00
P. C. Hall & Son	" "	"	"	"	390 00
P. R. Gutterson	Methuen, "	"	"	"	943 50
Frank Searle	Boston, "	"	"	"	809 90
John B. Walcott	Natick, "	"	"	"	3,270 00
Wm. Quinn	Boston, "	"	"	"	612 70
John Lane	E. Bridgewater, Mass.	"	Cash & loans	"	Ab't 84,000 00
John Adden	Reading, Mass.	" checks & due bills.		"	" 40,000 00
City of Boston	Boston, "		Water tax	"	17 50
Home Ins. Co.	" "		Insurance	"	14 50
J. M. Jones	" "		Rent	"	50 00
R. H. Mitchell	Wakefield, "	acc't	Labor	"	20 00
Edward Burdette	No. Reading "	"	"	"	50
356 E. B. Buckstone	Reading, "	"	"	"	23 00
Sarah Ross	Boston, "	"	"	"	7 88
Carrie Read	" "	"	"	"	28 00
Mark Buckley	" "	"	"	"	6 51
Tim. Coffin	" "	"	"	"	4 67
Eliab Parker	" "	"	"	"	60 00
Jacob Ames	Woburn, "	Note &	" & cash	"	
New Eng'd Heel Co.	Boston, "	"	"	"	9 65
Parker & Stone	Reading, "	"	"	"	51 44
Wendell Bancroft	" "	"	"	"	80 69
Aaron Hobart	East Bridgewater, Mass.	"	Cash	"	1,980 40
F. Lewis	Reading, Mass.	"	"	"	107 50
E. F. Adden	Northumberland, N. H.	"	"	"	
H. S. Richardson	Reading, Mass.	" & draft	"	"	8,627 86
A. P. Damon	" "	Note	"	"	5,300 00
Sundry endorsements on notes discounted & held by nat.	banks & others, amounts	unknown.			
Elmira G. Adden	Reading, Mass.	Note	"	"	Ab't 5,325 00

(Signed) JOHN H. ADDEN.

MIDDLESEX, *ss:*

MARCH 10TH, 1882.

Then personally appeared the before-named insolvent debtor and made oath that the foregoing schedule of his creditors made
357 and signed by him is in all respects just and true, according to his best knowledge and belief.

Before me—

(Signed) ALONZO V. LYNDE,
Justice of the Peace.

Endorsed on back: Case No. 1321. Schedule of creditors in the case of John H. Adden, insolvent debtor. Filed March 10th, 1882.

358 This schedule is to be filled up, signed, sworn to, and filed with the register by the debtor within five days after date of the warrant and a copy thereof delivered to the messenger within three days.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex,* } *ss:*

Court of Insolvency.

Schedule of Real and Personal Estate of John H. Adden, of Reading, in the County of Middlesex and Commonwealth of Massachusetts, Insolvent Debtor.

Description of property.	Where situated.	If mortgaged, to whom and for how much.
Shoe stock & materials	# 135 Pearl St., Boston	None.
Tools & machinery	"	"
Office furniture		" All under attachment suit of Hobart and others.
About 600 cases of shoes	In store # 58 Custom-House St., New Orleans, La.	None. Valued at $18,341.47, under attachment by E. A. Smith & Co., of N. Y.
Office furniture	In store # 58 Custom-House St., New Orleans, La.	None.
Accounts, notes, & drafts due	in Louisiana, Arkansas, Mississippi, Tennessee, & Alabama, amounting to ab't $280,000.	
Sundry notes, drafts, & acc'ts	due to Boston store, about	$10,000.
1 horse, 2 carriages, & harnesses.		None.
1 sleigh & 1 cart	At Reading, Mass.	"
Hay & tools in stable	" "	"
Household furniture & wearing apparel.		Exempted.

359 (Signed) JOHN H. ADDEN.

MIDDLESEX, *ss:*

MARCH 10TH, 1882.

Then personally appeared the before-named insolvent debtor and made oath that the foregoing is a correct schedule of all his real and personal estate, according to his best knowledge and belief.

Before me—

(Signed) ALONZO V. LYNDE,
Justice of the Peace.

Endorsed on back: Case No. 1321. Schedule of property in the case of John H. Adden, insolvent debtor. Filed March 10th, 1882.

360 COMMONWEALTH OF MASSACHUSETTS, *Middlesex.* } *ss:*

Court of Insolvency.

[SEAL.] In the Case of JOHN H. ADDEN, Insolvent Debtor.

To Dixon Washburn, of Natick; Joseph L. Pratt, of Reading, and James A. Bancroft, of Reading, all in said county of Middlesex, Greeting:

You are hereby appointed to appraise, on oath, all the estate, real and personal, of the said insolvent debtor which the assignment vests in the assignees of said estate and which has come to their possession or knowledge. When you have performed that service you will deliver this order and your doings in pursuance thereof to said assignees, that they may return the same to the court of insolvency for said county of Middlesex.

Witness my hand and the seal of said court this twenty-third day of March, in the year of our Lord one thousand eight hundred and eighty-two.

(Signed) GEORGE M. BROOKS,
Judge of Court of Insolvency.

SUFFOLK, *ss:*

BOSTON, *August* 21, *A. D.* 1882.

361 Then the above-named Dixon Washburn, Joseph L. Pratt, and James A. Bancroft personally appeared and made oath that they would faithfully and impartially discharge the trust reposed in them by the foregoing order.

Before me—

WILLIAM A. SARGENT,
Justice of the Peace.

Pursuant to the foregoing order to us directed we have appraised said estate as follows, to wit:

Amount of real estate, as per schedule exhibited ------ $
Amount of personal estate, as per schedule exhibited -- $30,277 70

DIXON WASHBURN,
JOSEPH L. PRATT,
JAMES A. BANCROFT,
Appraisers.

MIDDLESEX, *ss:*

SEPT. 14TH, A. D. 1882.

Then personally appeared J. M. B. Reynolds and Stillman E. Parker, the assignees of said estate, and made oath that the foregoing is a true and perfect inventory of all the estate of said insolvent debtor which the assignment vests in said assignee that has come to their possession or knowledge.

Before me—

A. V. LYNDE,
Justice of the Peace.

362 (This schedule should be divided into at least four classes: 1st, household furniture, &c.; 2nd, shares in corporations; 3rd, promissory notes and other securities; 4th, property employed in business, &c.)

Schedule of Personal Estate.

Shoe stock and machinery in Boston	1,596 70	
Personal property at Reading, Mass.	109	
		1,705 70
Notes & accounts due Boston, $10,000		No value.
Stock in hand sheriff in New Orleans		8,572 00

Notes & acc'ts in hand sheriff in New Orleans from best information in our possession is — follows:

Amount returned by J. H. Adden, $280,000; valued by us	19,950 00
	$30,227 70

Endorsed on back: Case No. 1321. Inventory in the case of John H. Adden, insolvent debtor.

363 COMMONWEALTH OF MASSACHUSETTS, *Middlesex*, } *ss:*

Court of Insolvency.

In the Case of JOHN H. ADDEN, of Reading, Insolvent Debtor.

A List of Debts Due from said Insolvent Debtor, Duly Proved and Allowed by the Judge of said Court at the First Meeting of His Creditors, Held March 23d, A. D. 1882.

Names of the creditors.	Residence.	Privileged.	Not privileged.
Dana Knox	Lynn		15 75
Boynton & Bancroft	"		195 90
Abington Tack & Machine Co.	Abington		67 65
Wendall Bancroft	Reading		31 94
S. E. Parker, adm'r	"		660 28
C. O. McLain & Co.	Boston		210 30
Lucius Beebe & Sons	"		683 47
E. & A. H. Batcheller & Co.	"		10,451 00
W. Malten	Winchester		58 40
Aaron Hobart	E. Bridgewater		2,070 14
Ebenezer B. Buxton	North Reading	23 00	
Albert P. Damon	Reading		5,403 33
Reuben H. Mitchell	Wakefield	22 83	
J. R. Leeson & Co.	Boston		18 45
Eliah Parker	"	60 00	
Buchanan & Dow	"		51 10
How, Galloup & Co.	"		12 00
Hollis & Snow	"		14 70
Hough & Rummey	"		15 06
D. F. Belcher	"		55 05
James P. Phenney & Co.	"		10 76
364 Chace, Merrett & Blanchard	Boston		839 55
Frederick Jones & Co.	"		1,586 92
R. W. Emerson & Co.	"		2,987 57
P. C. Hall & Son	"		389 12
Nichols & Farnsworth	"		1,184 49
Ira B. Lancaster	"		2,749 46
T. N. Whicker & Co.	"		656 15
Pierce & Son	"		508 28
Wm. Quinn & Co.	"		616 48
Wallace & Macomber	"		280 80
Charles W. Haskell	Lynn		492 07
Kimball Bros.	"		1,349 60
Lueman T. Jeft	Hudson		1,512 71
Jacob Ames	Wobern	100 00	5,794 30
Edwin Burdett	North Reading	35 75	
Rufus Crane	Hanover		2,145 45
John B. Walcott	Natick		3,270 00
Bela T. Nash	Abington		1,434 62
Josiah S. Tully	New York		805 71

Attest:
(Signed) J. H. TYLER, *Register.*

365 At 3d Meeting. Sept. 14th, 1882.

Names of the creditors.	Residence.	Privileged.	Not privileged.
John Lane	East Bridgewater		43,950 34
R. C. Keith & Brother	" "		877 20
John Lane	" "		39,240 48
Frank Lewis	Reading		107 50
Henry G. Richardson	"		8,591 50
Samuel Lessargey	Pembroke		27 00
Philo R. Gullerson	Northwern		943 50
Edward F. Adden	Northumberland, N. H.		11,653 34
Belo S. Nash, adm'r	Abington		84 00
Augustus McDuffie	Haverhill		114 07
Traders' Nat. Bank	Boston		1,379 98
"	"		1,279 89
Josiah M. Jones	"		59 17
Seavy, Foster & Boroman	"	12 05	93 95
Sarah L. Ross	"	7 88	
Mark Buckley	"	6 51	
Timothy Coughlan	"	4 67	
Carrie P. Reed	"	28 00	
Aaron Hobart	E. Bridgewater	63 54	

Attest:

(Signed) J. H. TYLER, *Register.*

At Adj'd 3d Meeting, Jan'y 25th, 1883.

Manuf'rs' Nat. Bank of Boston	Boston		803 35

Endorsed on back: 45. Case No. 1321. Lists of debts proved in the case of John H. Adden, insolvent debtor.

366 Case No. 1321.

JOHN H. ADDEN, of Reading.

1882.

March 10. Debtors' (1) petition filed & warrant (2) issued, returnable 23d inst.; schedule of creditors (3) & property filed.

" 11. First publication.

" 23. First meeting; warrant (2) returned; claims allowed of David Knox (5), Boynton & Bancroft (6), Abington Tack & Machine Co. (7), Wendell Bancroft (8); S. E. Parker (9), adm'r; C. O. McLain (10) & Co., Lucius Beebe (11) & Son, E. & A. H. Batchelder (12) & Co., W. Matten (13), Aaron Hobart (14), Ebene-

(15) (16) (17)
zer B. Burton, Albert P. Damon, Reuben H. Mitchell,
18 (19) (20)
J. R. Leeson & Co., Eliab Parker, Buchanan & Dow;
(21) (22) (23)
How, Galloup & Co.; Hollis & Snow, Hough & Rum-
(24) (25) (26)
ney, O. F. Belcher, James P. Phinney; Chase, Merritt
(27) (28)
& Blanchard; Frederick Jones & Co., R. W. Emerson
(29) (30) (31)
& Co., P. C. Hall & Son, Nichols & Farnsworth, Ira B.
(32) (33)
Lancaster, T. A. Whicher & Co., Pierce & Son, Wm.
(34) (35) (36)
Quinn & Co., Wallace & Macomber, Chas. W. Has-
(37) (38) (39)
kell, Kimball Bros., Lumon T. Jefts, Jacob Ames,
(40) 41 (42) (43)
Edwin Burdett, Rufus Crane, J. B. Walcott, B. T. Nash,
(44) (45)
J. T. Tubby; list of debts proved filed; Stillman E. Parker, of Reading, and John M. B. Reynolds, of Bos-
46
ton, appointed by the court assignees and their accept's
(47-'8)
and bonds filed; assignments made and recorded, vol.
(49)
3, page 87; order issued for second meeting, 25th May next.

(50)
April 5. Petition & order for ex. from sale at auction filed.

(51)
May 8. Petition of A. H. Batcheller for examination of
367 debtor presented and sum-ons issued, ret. 11th inst.

(52)
May 11. Summons returned; debtor sworn for examination.

53
" 8. Petition of A. H. Batcheller for ex. of John Adden & order thereon filed.

(49) 55
" 25. Second meeting; order returned; debtor's oath filed.

(56)
" " Pitition & order for ex. from Jno. till 3rd meeting filed;
(57)
order issued for 3rd meeting, 14 Sept. next.

(58)
June 5. Petition of J. M. B. Reynolds' assigns for ex. of John Adden
(59) (60)
& order thereon filed; commission issued.

61 (62)
Sept. 4. Petition of J. M. B. Reynolds' assigns for ex. of J. Ames & citation issued, returnable 14th inst.

(57) (63 & 65)
14. Third meeting; order returned; claims allowed of J. Lane,

R. C. Keith (64) & Bro., F. Lewis (66), H. G. Richardson (67), Lefurgey (68), P. R. Gutterson (69), E. F. Adden (70), B. F. Nash (71), adm'r; A. McDuffie (72), Traders' Nat. Bank (73 & 74), J. M. Jones (75); Seavy, Foster (76) & Bowman, S. L. Ross (77), M. Buckley, T. Coughlan 78, C. P. Reed 79, A. Hobart (80); see list (81), inventory (45) filed; assignees' pet. for ex'm' of Eliab Parker (82). He appeared & was sworn. Ass'n's' pet. for ex. of Albert P. Damon (83) & cit. issued (84). Meeting adj'd to 12th Oct. next.

22. Creditors assent (85) & assignee-' notice of appeal filed (86, 87, 88, 89).

1882.

Sept. 28. Citation returned; Albert P. Damon appear- and is sworn for ex.

Oct. 12. Meeting pursuant to adj't; objection to discharge filed (85); meeting adj'd to 25 Jan'y next.

1883.

Jan'y 25. Meeting pursuant to adj't; claim allowed of Man'f'rs' N. Bank (86). See list (87).

368 Meeting adj'd to 24th May next. March 8, debtors' examination filed (45).

May 24. Meeting pursuant to adj't, & again adj'd to 11 Oct. next (88).

June 9. Petitions of J. M. B. Reynolds, ass'ee for ex. of J. Lane, & E. F. Adden presented & citations therein issued, ret. 14 inst. 88 & 90 (91, 92).

14. Citation returned & J. Lane sworn for ex.; citation not served & new citation issued, ret. 28 inst. (92) (93).

July 21. Order on petition for ex. of J. Lane. 89

23. Petition of J. M. B. R., ass'ee for ex. of A. Hobart, filed & citation issued, ret. 28 inst.; citation issued & Hobart sworn for ex.; citation returned unserved. 94 (95) (90) (96).

1883.

Oct. 11. Meeting pursuant to adj't & again adj'd to 10th Jan'y next.

1884.

Jan'y 10. Meeting pursuant to adj't & again adj'd to 24 April next.

(97)
Feb'y 1. Petition & order thereon for ass'gn'es to file acc'ts filed.
April 24. Meeting pursuant to adj't & again adj'd to 26th June next.
June 26. Meeting pursuant to adj't & again adj'd to 23d Oct. next.
(98)
July 10. J. M. B. Reynolds', ass'ees, acc't filed.
(99)
July 16. Reynolds', ass'ee, petition to expunge claims of J. Ames
(100)
and A. P. Damon filed.
(101 & 102)
July 24. Respondent's answer filed.
1884.
(103)
Oct. 3. Petition of Reynolds to cite in Parker, his co-assignee,
(104)
filed and citation issued, ret. 9th inst.
369 Oct. 3. Meeting pursuant to adj't and again adj'd to 13th Nov. next, at 2 p. m.
Nov. 13. Meeting pursuant to adj't to 10th Dec. next, then to 11th instant.
(99, 100, & 103)
Dec. 11. Meeting pursuant to adj't; hearings had and petitions dismissed; meeting adj'd to 23d April next.
1885.
(104)
Jan'y 13. Petition to declare J. Lane a general partner of debtor,
(105)
&c., filed & citation issued; ret. 22 inst.
22. Citation returned; hearing adj'd to 28th inst., at 9½ a. m.
28. Hearing adj'd to 17th Feb'y next, at 9½ a. m., then to 11th April next.
114
April 11. Petition dismissed.

370 *Pages of Testimony of John Adden, Taken March* 30, 1883, *Offered by Mr. Butler on Behalf of Complainant.*

Pages 5 and 6.

Q. April of what year?
A. 1861, I believe; I think so.
Q. How long did you continue to do business in New Orleans from 1861, on your own account?
A. Well, I could not say because my memory—I can't remember as I use to.
Q. Were you in business more than a year?
A. Yes, sir; I think so. I think that Mr. George and my son had the business in 1865. I think so; that is my impression.
Q. Then, you did business on your own account from 1861 to 1865?
A. I think so.

Q. Whereabouts?
A. 81 or 85 Canal St., I guess.
Q. What was the character of your business there?
A. Boots and shoes.
Q. Did you have any one associated with you in business?
A. No, sir; not at that time.
Q. Did you at any time?
A. No, sir; not here. I never did.
Q. Never had a partner in New Orleans?
A. I think not.
Q. Don't you know that you had a partner in business with
371 you in New Orleans?
A. That is something I never thought of.

Page 13.

Q. What capital did the business of your son, John H. Adden, & Mr. Ogden George consist of?
A. Mr. Ogden George had $50,000.
Q. What capital had your son?
A. My impression, about $15,000 or $20,000 or $25,000.
Q. Where did he get it?
A. I let him have part of it.
Q. Was it part of the stock that you turned over to him?
A. Yes, sir; he had that as part.
Q. How long did your son, John H. Adden, continue to do business as a partner with Ogden George in the city of New Orleans?
A. Well, I could not—I don't know what year he died. I could not say.

Page 17.

Q. And since that time your son has done business in New Orleans with whom?
A. With himself only.
Q. Who has managed that business in New Orleans?
A. I have.
372 Q. You had charge of that business?
A. I think so; ever since Hufft left.
Q. What capital did your son, Jno. H. Adden, use in business when he started on his own account, after having dissolved partnership with Mr. Huft?
A. $50,000 or $60,000.
Q. Where did he get it?
A. Made it.
Q. How did he make it?
A. Shoe business.

Pages 3, 5, 6, 7, 45, 47, 49, 58, 61, *and* 62 *of John Adden's Testimony Taken on March* 31, 1883, *Offered by Mr. Butler.*

Page 3.

Q. What was the style of the business carried on during that period?

A. The name?

Q. Yes.

A. Well, I don't know whether he and I carried it on together or he alone. I would not say positively about that.

Q. It was either carried on by you and he together or by him alone?

A. Yes, sir.

Q. If it was carried on then by him and you together, then he had an interest in the concern during that period?

373 A. If it was so, yes, sir.

Q. Did you have a factory?

A. Yes, sir.

Q. In his name, in Boston, at that time?

A. Yes, sir.

Pages 5, 6, and 7.

Q. I ask you if he commenced doing business with you. Did he ever do business before with anybody else?

A. I think not, sir.

Q. He started business, then, with you?

A. I think so.

Q. And it was either carried on by him in his name individually or by you in your name individually or in the name of both parties?

A. Yes, sir; me or the other.

Q. Who furnished the capital for that business?

A. I furnished it.

Q. How much was it?

A. Well, at that time perhaps it was six or eight thousand that we had in goods.

Q. Six or eight thousand dollars in goods?

A. Yes, sir.

Q. In 1865 I understood you to say that you gave up business and your son, John H. Adden, continued the business or entered into the business in partnership with Ogden George?

374 A. Yes, sir.

Q. What capital did your son put into that business?

A. He put in, if my recollection serves me right, from fifteen to twenty-five thousand dollars.

Q. Where did he get that capital?

A. I had it.

Q. Was it in cash or goods?

A. Both, I believe.

Q. How much in cash?
A. I could not say exactly about that, sir.
Q. You could not say exactly about that?
A. No, sir.
Q. How much in goods?
A. From fifteen to twenty-five thousand dollars.
Q. In the goods?
A. In the goods or money, whatever it was.
Q. Do you know whether there was any large amount of cash put into that concern at that time by him?
A. I don't know that there was. I don't think it was a large amount. I think it was mostly in stock of goods.

Page 45.

Q. When the store in New Orleans needed — supply of goods who ordered it?
A. I ordered it.
375 Q. Then it was your business to keep the establishment stocked here?
A. Yes, sir.
Q. And your business to determine who should be and who should not be customers of the concern?
A. Yes, sir.
Q. Did that continue down to the period of your son's surrender in the insolvent court in Massachusetts?
A. Yes, sir.
Q. Were you familiar with all the details of the business at 58 Custom-House street?
A. I thought I was, as a general thing.

Page 47.

Q. You kept a close supervision over everything?
A. Fairly, I guess; as well as I was capable of, perhaps.
Q. Were books of account kept by John H. Adden at 58 Custom-House street? Did you keep books of account there?
A. No, sir; I did not keep any books.
Q. Were any books kept?
A. Yes, sir.
Q. By whom were they kept?
A. By Mr. Weber.

Page 49.

Q. Did he continue to serve John H. Adden or the busi-
376 ness at No. 58 Custom-House street after that surrender?
A. He was there; yes, sir.
Q. By whom was he employed there after that date?
A. If it was anybody it was me, I suppose.
Q. Did you keep him there?
A. Well, I suppose so; I suppose I did if it was any one.
Q. How long did you continue to keep him there or keep him in your employ at all?

A. I don't recollect now, sir; I could not say.
Q. Has he ever been discharged by you?
A. Not particularly so; no.
Q. Not particularly so; no?
A. No, sir.

Page 58.

Q. Had he anything to do with the books?
A. He had all, if there was anything to do with them.
Q. He had them, then, in his charge during that time?
A. Yes, sir; always had them.
Q. And what were you doing there?
A. Nothing.
Q. Were any bills paid during that interval?
A. Not that I know.
Q. Were any collections made during that interval?
A. Not that I know of.

Q. What time during the day were you in the habit of
377 spending at that place?
A. The middle of the day.

Pages 61 and 62.

Q. Was he in your employ when he met you in Mobile in the latter part of May, 1882?
A. Not specially in my employ; he was not.
Q. What took him to Mobile at that time?
A. I don't know particularly what he came for now.
Q. You don't?
A. No, sir.
Q. How was he called there?
A. Well, I am inclined to think that I wrote him to come over; that is my impression.
Q. What did you want him there for?
A. I wanted to see him.
Q. About what?
A. Because I was going North, and I wanted to see him to look after things.
Q. Look after what things?
A. Why, to see what Mr. Reynolds was doing.
Q. You wanted him to look after Mr. Reynolds?
A. Yes, sir.
Q. Did you want him to look after the affairs of the store 58 Custom-House street?

378 A. I wanted him to look out and see how things was going.
Q. What was he doing?
A. Nothing. I gave no directions.
Q. You sent for him to come to Mobile?
A. I think I did.
Q. Wanted to give him instructions?
A. Yes, sir; you may call it so.

Pages 30, 31, 46, 49, 50, 52, and 69 *of the Testimony of John Adden, Taken on the* 10*th April*, 1883, *by Mr. Butler.*

Pages 30 and 31.

Q. Did you have them in your custody?
A. I had them in my custody if I wanted them.
Q. Were they or not in your custody as the manager of this business?
A. Yes, sir.
Q. Then you had them in your custody?
A. Yes, sir.
Q. Where were they when you came to New Orleans from Boston in April, 1882—those notes and drafts?
A. They were in the safe.
Q. Did you see them there about that time?
A. I think so, sir.
Q. Did you handle them or any of them?
A. I think I might.
379 Q. Who was present when you ever handled any of those notes and drafts that you refer to after you returned from Boston in April, 1882?
A. The book-keeper.
Q. Mr. Weber?
A. Yes, sir.
Q. Anybody else?
A. No, sir; not to my knowledge.
Q. Nobody else ever saw them but the book-keeper and yourself while you were present?
A. Not to my knowledge, sir.
Q. When were they last about—where were they about when you last saw them?
A. Well, in the safe, where they always were.

Page 46.

Q. As a matter of fact, don't you know that they weren't seized—the notes, the drafts, and the accounts?
A. I know——
Q. Did you not handle the notes and drafts and accounts yourself and have them in your possession between the first of April and the 16th of May, 1882?
A. I think I did.
Q. Did you turn over any notes, drafts, or accounts, the property of John H. Adden, insolvent debtor, to the sheriff?
380 A. No, sir.
Q. Who paid the expenses of Stillman E. Parker to come out here?
A. He paid them himself, I suppose.

Pages 49 and 50.

Q. That is all he did, to your knowledge?
A. Yes, sir.
Q. Was that the purpose for which he was chosen assignee?
A. He expected when he came here to meet Mr. Reynolds at the store, which he did not, as I understand it, for four weeks.
Q. Did he make any effort to collect anything for the creditors of John H. Adden, that you know of?
A. Not to my knowledge.
Q. What money, bills, notes, or accounts belonging to John H. Adden did you take away with you in May, 1882, when you left for Mobile?
A. I did not take any away.
Q. Why did you not take them with you?
A. Because I did not wish to.
Q. With whom did you leave them?
A. With Mr. Weber.
Q. Was Mr. Weber here when you left?
A. I think he was. I won't be positive about it.
Q. You stated in your examination yesterday that he left several days before you did.
A. Well, he might. I don't recollect about that.

381 Page 52.

Q. According to the schedule which is filed in the insolvency of your son, the data upon which the same was made being, as I understand, furnished him by you, there was some two hundred and eighty thousand dollars' ($280,000) worth of notes, drafts, and accounts, the property of John H. Adden. Why did you not see that these assets were put in the hands of some person—responsible person—before you left here?
A. I thought I did.
Q. In whose hands did you leave them?
A. I left them in Mr. Weber's hands.
Q. Are you certain of that?
A. I think so; yes, sir.
Q. If you left them in Mr. Weber's hands, then Mr. Weber could not have been here?
A. Of course, all of them was here was in Mr. Weber's hands.

Page 69.

Q. In fact, you don't know anything about the breaking open of the safe?
A. Just what I told you is all what I know.
Q. And that is purely hearsay testimony from a lettter which was written by George W. Weber?
A. Yes, sir.
Q. Where was George W. Weber at the time?
382 A. In New Orleans.
Q. In New Orleans?

A. I think.

Q. Did you get a letter from him in New Orleans about the matter?

A. I think so.

Q. When did it occur—when was that letter written?

A. I think it was in May.

Pages 46, 49, 58, 70, 71, 109, 112, 114, 115, 241, 242, 243, 244, 245, 246 *of the Testimony of John Adden, Taken on the* 31*st March*, 1883, *Offered by Mr. Butler.*

Page 46.

Q. Were you familiar with all the details of the business at 58 Custom-House street?

A. I thought I was, as a general thing.

Q. You have kept a close supervision over everything?

A. Fairly; I guess as well as I was capable of, perhaps.

Q. Were books of account kept by John H. Adden at 58 Custom-House street? Did you keep books of account there?

A. No, sir; I did not keep any books.

Q. Were any books kept?

A. Yes, sir.

Q. By whom were they kept?

383 A. By Mr. Weber.

Page 49 copied at page 375 of this transcript.

Page 58 copied at page 376 of this transcript.

Pages 70 and 71.

Q. What was your objection to being examined in connection with the insolvency of your son before the commissioner?

A. I had no particular objection. I always told them I would be examined.

Q. Told whom? Who did you tell you would be examined?

A. Why, I told several of the creditors, I think.

Q. But, notwithstanding the fact that you told them you always were ready to be examined, when you were notified to be examined before Commissioner Jno. E. Eustis in this matter of the insolvency of your son one of your reasons for leaving the city at that time was to avoid that examination.

A. Not altogether.

Q. I asked you if one of your reasons was not.

A. Yes, sir; you can call it one of your reasons.

Q. Now, will you please state what the objection was to your being examined as witness in the insolvency proceedings of your son?

A. Not any.

Q. Still you did object without any reason?

384 A. I objected without any; that when I got ready I was willing to be.

Q. When you got ready you were willing to be?

A. Yes, sir.
Q. Where did you go after you left Mobile in May, 1882?
A. I went home.

Page 109.

Q. How far above? Don't you know he lived on Phillip street?
A. No, sir.
Q. You were not very well acquainted with him except he was a clerk in your employ?
A. That is all.
Q. You don't know anything about his family, then?
A. No, sir; not particularly.
Q. Who is Mr. Henry Weber?
A. Henry Weber? I think that is his father. I won't be certain now.
Q. Where does he live?
A. I don't know, sir.
Q. Did you ever have any business transactions with him?
A. I sold him a note once.
Q. How did you come to sell him a note?
A. Because he wanted to buy it.

Page 112.

385 Q. Was the note according to its face *passed* due when you sold it to him?
A. I could not tell you that. I think it was, you know; but then I would not say positively.
Q. Had you had any business transaction with Mr. Henry Weber before?
A. No, sir.
Q. What is his business?
A. It is a milkman, I believe.
Q. Is he any kin to George W. Weber?
A. Father, I understand.
Q. Has he ever followed any mercantile or commercial pursuits as far as you know?
A. Not as far as I know.

Pages 114 and 115.

Q. Who did you ask to see him about it?
A. I have no knowledge of asking any one.
Q. Well, did you first meet up with him on the street?
A. No, sir; he was occasionally in the store.
Q. On one of those occasions then you suggested to him the propriety of buying this note?
A. I think so. I don't recollect particularly. I don't recollect the particulars about it.
Why is it that you have no recollection of the particulars
386 about it?
A. Because I sold him the note, and that is all.

Q. Well, did you sell it for cash or a note?
A. I sold for a thirty-day note.
Q. You remember that particular about the transaction?
A. Yes, sir; I do.
Q. Now, please tell us when you did it.
A. I could not tell that.
Q. Could not tell that?
A. No, sir. I can, I guess, by referring to some of my books. I recollect it was a thirty-day note, but I could not——
Q. Now, please tell us the amount of the thirty-day note that he gave you.
A. Yes, sir. Five hundred dollars. Ten cents on the dollar.

Pages 241, 242, 243, 244, 245, and 246.

Q. Do you know whether it was or not?
A. Well, that is my impression.
Q. Have you anything but an impression on the subject?
A. Well, I think the notes speak for themselves, and the books will tell for themselves exactly when those notes were given and all about it.
Q. When you returned here in April, 1882, from Boston who was in the store No. 58 Custom-House street?
A. The sheriff was there and keeper, or something like that.
387 Q. Anybody else?
A. Mr. Weber, I believe, was there, and Christ. Stock.
Q. Then Mr. George Weber and Christ. Stock and the sheriff were in possession?
A. The keeper was in there, and Christ. Stock and Mr. George W. Weber.
Q. Well, where were the books?
A. In the safe.
Q. Who had the key of the safe?
A. Mr. Weber.
Q. Were you in there every day from that time on until the time you left for Mobile?
A. I think I was; nearly so.
Q. Did you ever see the books?
A. Yes, sir; I did.
Q. In whose possession?
A. In the safe.
Q. Did you ever see them out of the safe?
A. I think I have taken them out and looked at them myself. I think so.
Q. Were they laid upon the desks there for inspection and work during that interval at all?
A. I think they were put upon the desks.
Q. Who went to the books?
A. I went to the books.
Q. Did you look through them and examine them?
388 A. I don't think I went through them, but I looked at them.

Q. See the state of the different accounts?
A. Partially, I suppose.
Q. Where were the notes and drafts of John H. Adden?
A. In the safe, sir.
Q. Were they held under the writ of attachment?
A. I don't know, sir; that is more than I can say.
Q. Did you have them attached?
A. I suppose so; I don't know anything about it.
Q. Did you instruct that everything should be attached to cover your claim?
A. I don't recollect about that; I suppose so. I thought the attorney was capable of judging what should be done.
Q. Who opened the safe in the morning?
A. Mr. Weber.
Q. Who closed it at night?
A. Mr. Weber.
Q. Who took the books out of the safe when they were taken out?
A. Well, I think likely that I might have taken them out.
Q. Who put them back in the safe?
A. I presume he did.
Q. You say that the drafts and notes of John H. Adden due the concern were also in the safe?
A. Yes, sir.
Q. Where were they separate in the safe—separate from the books?
A. Yes, sir; they were kept separate from the books.
Q. In what kind of a department?
389 A. Well, little vault.
Q. Little vault inside of it?
A. Yes, sir.
Q. Who had the key of that?
A. Mr. Weber.
Q. When that vault was opened he opened it?
A. Yes, sir.
Q. I understood you to say you never discharged Mr. Weber yet?
A. No, sir; I don't know that I did.

390 *Copy of John Adden's Appointment as Assignee of the Insolvent Estate of Damon, Temple & Co., His Acceptance and Bond, in All of which He Represents Himself as of Reading, Mass.*

COMMONWEALTH OF MASSACHUSETTS, *Middlesex,* } *ss:*

[SEAL.] Court of Insolvency.

I, Joseph H. Tyler, register of the court of insolvency for said county of Middlesex, having by law the custody of the seal and all the records, books, documents, and papers of or appertaining to said court, hereby certify the papers hereto annexed to be true copies of papers appertaining to said court and on file and of record in the office of said court.

In witness whereof I have hereunto set my hand and the seal of said court this twenty-eighth day of April, in the year of our Lord one thousand eight hundred and eighty-five.

(Signed) JOSEPH H. TYLER, *Register.*

COMMONWEALTH OF MASSACHUSETTS, *Middlesex*, } *ss:*

391 I, George M. Brooks, judge of the court of insolvency within and for the county of Middlesex, hereby certify that Joseph H. Tyler, whose signature is affixed to the annexed certificate, is the register and proper certifying officer of said court of insolvency and has by law the custody of the seal and all the records, books, documents, and papers of or appertaining to said court of insolvency, and said certificate is in due form as used in this Commonwealth.

In witness whereof I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord eighteen hundred and eighty-five.

(Signed) GEORGE M. BROOKS,
Judge of Court of Insolvency.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex*, } *ss:*

Court of Insolvency.

In the Case of ALBERT P. DAMON and JOSEPH S. TEMPLE, Both of Reading in said County, Copartners under the Firm of Damon, Temple & Co., Insolvent Debtors.

To John Adden, of Reading, in said county, and Henry C. Davis, of Boston, in the county of Suffolk:

392 You are hereby notified that you have been duly appointed assignee in said case.

Sept. 23, 1880.

(Signed) J. H. TYLER, *Register.*

We hereby signify our acceptance of the trust of assignees of the estate of the above-named insolvent debtor.

Sept. 23, 1880.

(Signed) JOHN ADDEN.
HENRY C. DAVIS.

Endorsed: Case No. 1216. Assignees' acceptance of trust in the case of Damon, Temple & Co., insolvent debtors.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex*, } *ss:*

Know all men by these presents that I, John Adden, of Reading, in the county of Middlesex, as principal, and John H. Adden, of Reading aforesaid, as surety, are held and firmly bound to George M. Brooks, Esquire, judge of the court of insolvency in

and for said county of Middlesex, in the sum of fifteen thousand dollars, to be paid to the said judge or his successor in said office; to which payment we bind ourselves and our heirs, executors, and administrators firmly by these presents.

393 Sealed with our seals this twenty-third day of September, in the year eighteen hundred and eighty.

The condition of this obligation is such that whereas the said John Adden has been duly appointed assignee of the estate of Damon, Temple & Co., of Reading, in said county of Middlesex, insolvent debtor:

Now, therefore, if the said assignee shall well and truly execute and perform all and singular the duties appertaining to his said trust of assignee and all orders and decrees that shall be legally made in the premises by the said judge or any of his successors, then this obligation shall be void; otherwise to remain in full force.

(Signed) JOHN ADDEN. [SEAL.]
(Signed) JOHN H. ADDEN. [SEAL.]

Signed, sealed, and delivered in presence of—
(Signed) A. LYNDE (to J.).
(Signed) A. V. LYNDE.

I hereby signify my approval of the above bond.
(Signed) GEORGE M. BROOKS,
Judge of Court of Insolvency.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex*, } *ss:*

Know all men by these presents that I, John Adden, of Reading, in the county of Middlesex, as principal, and John Lane, of

394 East Bridgwater, in the county of Plymouth, as surety, are held and firmly bound to George M. Brooks, Esquire, judge of the court of insolvency in and for said county of Middlesex, in the sum of five thousand dollars, to be paid to the said judge or his successor in said office; to which payment we bind ourselves and our heirs, executors, and administrators firmly by these presents.

Sealed with our seals this thirteenth day of April, in the year eighteen hundred and eighty-two.

The condition of this obligation is such that whereas the said John Adden has been ordered to file a new bond by the judge of insolvency for said county as one of assignees of the estate of Albert P. Damon and Joseph S. Temple, copartners under the firm name of Damon, Temple & Co., of Reading, in said county of Middlesex, insolvent debtors:

Now, therefore, if the said assignee shall well and truly execute and perform all and singular the duties appertaining to his said trust of assignee, and all orders and decrees that shall be legally made in the premises by the said judge or any of his successors, then this obligation shall be void; otherwise to remain in full force.

(Signed) JOHN ADDEN. [SEAL.]
JOHN LANE. [SEAL.]

Signed, sealed, and delivered in presence of—

(Signed) J. G. EUSTIS.
(Signed) H. M. HYAMS.

I hereby signify my approval of the above bond.

(Signed) GEORGE M. BROOKS,
Judge of Court of Insolvency.

395 STATE OF LOUISIANA, }
City of New Orleans. }

On the 17 day of April, A. D. 1882, before me, John G. Eustis, a commissioner for the State of Massachusetts, duly commissioned and qualified and residing in said city of New Orleans, John Adden, personally known to me to be the person described in and who executed the foregoing instrument, and who acknowledged to me that he executed the same as his voluntary act and deed for the uses and purposes therein mentioned.

Given under my hand and seal of office on the day and year aforesaid.

[COMMISSIONER'S SEAL.] (Signed) J. C. EUSTIS,
Commissioner for Massachusetts.

Testimony of Ambrose Eastman and Affidavits of said Eastman and W. N. Mason.

Commission for plaintiff. Issued December 24, 1885.

UNITED STATES OF AMERICA:

396 Circuit Court of the United States for the Sixth Judicial Circuit, Holding Sessions in and for the Eastern District of Louisiana.

To any judge, justice of the peace, Louisiana commissioner, United States commissioner, or other officer authorized to administer oaths in Boston, State of Massachusetts:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you Ambrose Eastman and Walter N. Mason, of Boston, State of Massachusetts, and them duly examine on the annexed interrogatories, on oath, touching and concerning certain matters and things in a case now depending in the said court, wherein J. M. B. Reynolds, assignee, is plaintiff and John Adden *et als. is* defendants, and the same examinations, so taken and reduced to writing, you certify under your hand and seal and send enclosed to this court without delay, to be read in evidence on the trial of said cause; and send also this writ.

Witness the Honorable Morrison R. Waite, Chief Justice of the

[SEAL.] Supreme Court of the United States, at the city of New Orleans, this 24 day of December, anno Domini 1885, and of the Independence of the United States of America the 110th year.

(Signed) E. R. HUNT, *Clerk*,
By H. J. CARTER, *Deputy*.

Interrogatories to Ambrose Eastman & Walter N. Mason. Filed Dec. 21, 1885.

397 U. S. Circuit Court, Eastern District of La.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.*
} No. 10405.

Interrogatories to be propounded to Ambrose Eastman and Walter N. Mason, of Boston, State of Massachusetts, the answers to which, when received, are to be read in evidence on the part of plaintiff on the trial of this cause.

1st Interrogatory. What is your name, age, occupation, and where do you reside? Where were you on the 23rd day of March, 1882? If you say you were present at the first meeting of creditors of Jno. H. Adden, insolvent, before the probate court of insolvency for the county of Middlesex, at Cambridge, on the day above mentioned, state what you were doing there. Was defendant, John Adden, then present; if yea, was he a witness in behalf of any claimant? If yea, for whom did he testify? Did you question him as to his place of residence at that time; if yea, where did he state under oath that he resided? Of what State did he then swear he was a citizen? If John Adden's testimony was then reduced to writing and the same is now of record, please annex a certified copy of said Adden's
398 testimony, as then given, to your answers to these interrogatories.

(Signed) BLANC & BUTLER, *Att'ys.*

STATE OF LOUISIANA,
City of New Orleans, } *ss:*

Frank N. Butler, being duly sworn, says he is one of complainant's solicitors; that the plaintiff and complainant herein is at present absent from the State of Louisiana; that the testimony of Ambrose Eastman and Walter N. Mason, in answer to the foregoing interrogatories, is material and important to enable complainants to properly present *their* cause for trial.

(Signed) FRANK N. BUTLER.

Subscribed & sworn to before me this 21st day of December, 1885.

(Signed) E. R. HUNT,
U. S. Commissioner.

Marshal's Return.

Received Dec. 21, 1885, by the U. S. marshal, and on the 21 day of Dec., '85, I served a true copy of the within interrogatories on C. S. Kellogg, Esq., by handing the same to him in person.

(Signed) R. B. PLEASANTS,
U. S. Marshal, E. D. La.,
By DAN. A. ROSE,
D'y U. S. Marshal.

399 *Cross-Interrogatories.*

U. S. Circuit Court, Eastern District of La.

J. M. B. REYNOLDS
vs.
JOHN ADDEN *et als.* } No. 10405.

The defendant, John Adden, specially objects to plaintiff's commission herein and to the whole interrogatory herein propounded to said Ambrose Eastman and Walter N. Mason (which interrogatory is numbered 1st interrogatory), upon the following grounds, to wit:

1st. That said commission and said interrogatory are too late.

2nd. That said interrogatory seeks to open and revive the issue as to the residence and citizenship of said John Adden and to elicit evidence as to such residence and citizenship, which issue was and is closed and determined by decree of this honorable court, rendered herein on the motion of plaintiff to remand the above cause, and which decree is final and *res adjudicata.*

3rd. That said interrogatory seeks to contradict the testimony of said John Adden, plaintiff's own witness, as to such residence and citizenship.

4th. That said interrogatory seeks to impeach the said testimony of said John Adden as to such residence and citizenship, without plaintiff having directed said John Adden's attention to his supposed statements, under oath, before the said probate court of
400 insolvency, without plaintiff having asked said John Adden if he made such statements, and without plaintiff having given said John Adden an opportunity to deny or explain such statements.

5th. That said interrogatory seeks to elicit parol evidence as to that which, if it exists and is not otherwise inadmissible, is in writing.

6th. That said interrogatory is leading and is irrelevant.

And said defendant, reserving all other legal objections, propounds to said Ambrose Eastman and Walter N. Mason the following cross-interrogatories, to wit:

1st cross-interrogatory. Who was present when John Adden is supposed to have given his testimony in the said probate court of

insolvency, at the first meeting of creditors of John H. Adden, on the 23rd day of March, 1882?

2nd cross-interrogatory. Do you not or did you not, as attorney or otherwise, represent a creditor or creditors of said John H. Adden, insolvent, and as such attorney or otherwise are you not interested in defeating the defendant, John Adden, in this suit?

3rd cross-interrogatory. Are you not acquainted and well acquainted with the plaintiff, J. M. B. Reynolds, and have you not had conversations and frequent conversations with him about this suit, and is it not at his instigation or that of your clients, or at whose instigation is it, that you testify herein?

4th cross-interrogatory. Was not said supposed testimony
401 of John Adden reduced to writing; and, if not, why not?

(Signed) C. S. KELLOGG AND
E. N. WHITTEMORE, *Att'ys.*

COMMONWEALTH OF MASSACHUSETTS } *ss:*
County of Suffolk, City of Boston, }

The deposition of Ambrose Eastman, of the city of Boston, county of Suffolk, and State of Massachusetts, a witness produced, sworn, and examined before Edward J. Jones, a commissioner duly appointed by his excellency the Governor of the State of Louisiana to take the acknowledgment or proof of the execution of deeds and other instruments or writings, under seal or not, and to take depositions, &c., in the city of Boston, county of Suffolk and State of Massachusetts, to be used or recorded in said State of Louisiana, on this twenty-eighth day of December, A. D. 1885, at the office of said commissioner, No. 61 Court street, in Boston, in said county of Suffolk, and State of Massachusetts, at — o'clock — m., and in pursuance of and in obedience to a commission hereto annexed, issued out of and under the seal of the circuit court of the U. S. for the 5th judicial circuit in and for the eastern district of Louisiana, bearing date the 24th day of December, A. D. 1885, and to the said commissioner directed—

J. M. B. Reynolds, assignee, is plaintiff and John Adden & *als.*
are defendants in the action hereinafter referred to—to be
402 read as evidence on the trial of said cause or action, and now pending and undetermined in said court, on the part and in behalf of the said J. M. B. Reynolds. The said Ambrose Eastman being first duly cautioned and sworn as required by the law of the State of Louisiana, deposes and says in answer to the several interrogatories inclosed in the said commission on the part of the said J. M. B. Reynolds, then and there propounded to him by the said commission for said plaintiff, and the cross-interrogatories by said commissioner for said defendant as follows, to wit, on the four following pages, marked A, B, C, D.

EDWARD J. JONES,
[SEAL.] *Commissioner for the State of Louisiana,*
Residing at said City of Boston.

The deposition of Ambrose Eastman, who, being first duly
A. sworn, as required by the laws of the State of Louisiana, deposes as follows:

To the first interrogatory he answers:

1st answer. My name is Ambrose Eastman; age, 51 years. I am a lawyer, and reside at the city of Boston, county of Suffolk, State of Massachusetts.

403 On the 23rd day of March, 1882, I was present at the first meeting of the creditors of John H. Adden, an insolvent debtor, held at the court of probate and insolvency, in Cambridge, county of Middlesex, in said Massachusetts, before his honor George M. Brooks, judge of said court. I was present as counsel for Mess. E. & A. H. Batchellor & Co. and several other creditors of said insolvent debtor. John Adden, father of said insolvent debtor, who, I am informed, is the defendant in this suit, was present and was a witness testifying on behalf of one E. F. Adden, who presented a claim against the insolvent estate for allowance. I questioned said John Adden, as also did Walter N. Mason,
B. E. J. J., com'r. Seal. Esqr., in my presence (said Mason then appearing as counsel for other creditors) (he has since deceased). In regard to his, John Adden's, residence and citizenship, he testified on oath he resided in the town of Reading, county of Middlesex, in said Massachusetts, at that time and had resided there for several years, and that he was a citizen of Massachusetts. Both Mr. Mason and myself were specific and particular in our inquiries upon this head, because we contemplated action in the case which would make John Adden's citizenship and residence important as to the jurisdiction of
404 the said court. I therefore recall distinctly the questions and answers, although they were not reduced to writing at the time nor made matters of record.

Cross-answers:

To the first cross-interrogatory the deponent answers:

1st cross-answer. There were present at the meeting on March 23rd, 1882, mentioned in my answer to the direct interrogatory, Judge Brooks, presiding; Walter N. Mason (since deceased), A. V. Lynde, Esq., counsel for said insolvent debtor; the witness, John Adden; Mr. John Lane, and Mr. J. M. B. Reynolds, who was afterwards chosen one of the
C. E. J. J. assignees, with many other gentlemen whose names I now cannot recall. Mr. Reynolds was in another part of the room and I think not within hearing of the witness.

To the second cross-interrogatory the deponent answers:

2d cross-answer. At that time I was attorney for several creditors of said insolvent debtor, but shortly afterwards the assignees assumed charge of the
E. J. J., com'r. (Seal.) case, and for the past three years I have had no relation, as attorney or otherwise, with the creditors or other parties interested in the said insolvent estate or the present suit.

405 To the third cross-interrogatory the deponent answers:

3d cross-answer. I am acquainted with the plaintiff, J. M. B. Reynolds, having first met him in connection with the John H. Adden insolvent matter and having voted for him at the meeting before mentioned to be assignee of said estate. I have met him very rarely since that date, but when I have met him have usually inquired about the general progress of the case and conversed upon it, but I know almost nothing about the present suit. I testify herein under the summons of the commissioner who takes this deposition. I was not notified until three hours since that my evidence would be required, and then Mr. Reynolds called at my office and so informed me.

D. E. J. J., com'r. (Seal.)

To the fourth interrogatory the deponent answers:

4th cross-answer. Mr. John Adden's evidence, about which I have testified, was not reduced to writing by me, because no record was necessary to fix it in my memory. It was positive, explicit, and direct to the point and matter inquired about.

(Signed) AMBROSE EASTMAN.

406 *The Conclusion and Final Certificate.*

Deposition of Ambrose Eastman.

I, Edward J. Jones, a commissioner for the State of Louisiana, residing at the city of Boston, county of Suffolk, Commonwealth of Massachusetts, do hereby certify that Ambrose Eastman, the deponent named in the foregoing deposition, residing at said city of Boston, was by me duly sworn to testify the truth, the whole truth, and nothing but the truth concerning his knowledge of the suit, action, or controversy in the cause referred to in the foregoing deposition, and deponent having been thereupon examined his testimony was taken and reduced to writing under my personal supervision and by me, Edward J. Jones, a person not of counsel of either party, nor either plaintiff or defendant, and entirely disinterested in said cause; and, after being by me carefully read over to said deponent, the same was sworn to and signed by said deponent, in my presence, on the twenty-ninth day of December, 1885, between the hours of — a. m. and — p. m. of said day, at my office, at said city of Boston. Given and certified as above set forth.

Witness my hand and official seal, at the city of Boston aforesaid, this twenty-ninth day of December, 1885.

[SEAL.] (Signed) EDWARD J. JONES,
Commissioner for the State of Louisiana,
Residing at Boston Aforesaid.

407 *Affidavits of Ambrose Eastman and Walter N. Mason.*

I, Ambrose Eastman, on oath depose and say that I was present at the first meeting of creditors of John H. Adden, insolvent debtor, held before the Honorable George M. Brooks, judge of the court of

probate and insolvency for the county of Middlesex, on the 23d day of March, 1882, at Cambridge, in said county.

That I appeared at said meeting as attorney and counsel for several creditors of said insolvent debtor.

That at said meeting a claim against the estate of said insolvent debtor was presented by one E. F. Adden.

That the proof of said claim was opposed by Walter N. Mason and myself as counsel and attorneys for other creditors; that upon the hearing then had John Adden, the father of said insolvent debtor, was a witness in behalf of said contested claim.

That the said John Adden, in reply to questions put by said Mason and myself, stated under oath that he was a resident and citizen of Reading, Massachusetts, and had resided there for many years.

I further state that my recollection is distinct as to this fact for the reason that I questioned the witness as to his residence and citizenship with reference to future action in opposition to his alleged claims against said estate and to the jurisdiction of the courts of Massachusetts over his enforcement of the same.

(Signed) AMBROSE EASTMAN.

408 COMMONWEALTH OF MASSACHUSETTS, *Suffolk*, } ss:

APRIL 29, 1882.

Then personally appeared the above-named Ambrose Eastman and made oath that the foregoing affidavit by him subscribed is true.

Before me—

(Signed) M. F. DICKINSON, JR.,
Justice of the Peace.

I, Walter N. Mason, on oath depose and say that I have read the foregoing affidavit of Ambrose Eastman, and that the facts therein stated are true.

I heard said John Adden state distinctly, when under oath and in response to an inquiry by said Eastman, that he, said John Adden, resided in Reading.

(Signed) WALTER N. MASON.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk*, } ss:

BOSTON, *April* 29, 1882.

Then personally appeared the above-named Walter N. Mason and made oath that the foregoing affidavit by him subscribed is true.

Before me—

(Signed) M. F. DICKINSON, JR.,
Justice of the Peace.

409 *Subpœna. Issued to Geo. W. Weber Nov.* 19, 1884.

UNITED STATES OF AMERICA:

(Figure of eagle, &c.)

Circuit Court of the United States, Fifth Judicial Circuit, Holding Sessions in and for the Eastern District of Louisiana.

The President of the United States to the marshal of the eastern district of Louisiana to execute and return.

To Geo. W. Weber, 528 Philip street:

You are hereby commanded to be and appear at — clerk's office of the circuit court of the United States in and for the fifth circuit and eastern district of Louisiana, to be holden at the city of New Orleans on the 29th day of November, 1884, at 11 o'clock a. m., then and there to testify the truth, according to your knowledge, in the matter of J. M. B. Reynolds & E. & A. H. Batcheller & Co. *vs.* John Adden *et als.*, 10405, 10406; and herein fail not, under penalty of two hundred and fifty dollars.

410 Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of New Orleans, this 19th day of Nov'r, in the year of our Lord 1884, and of the Independence of the United States of America the 109th.

[SEAL.]

(Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received Nov. 19, 1884, by the U. S. marshal, and on same day, month, and year served a copy hereof on Geo. W. Weber by handing the same to him in person.

(Signed) J. R. G. PITKIN,
U. S. Marshal,
By JNO. H. SIMONDS,
D'y U. S. Marshal.

Motion for Attachment. Entered and Filed 29 *Nov.*, 1884.

U. S. Circuit Court, Eastern District of Louisiana.

J. M. B. REYNOLDS, Assignee, &c., *vs.* JOHN ADDEN *et als.* } No. 10405.

&

E. & A. H. BATCHELLER & Co. *vs.* JOHN ADDEN *et als.* } In Equity.

411 On motion of Blanc & Butler, solicitors for complainants in the above entitled and numbered suits, and on suggesting

to the court that on the 19th instant complainants caused one George W. Weber, who resides at No. 528 Philip street, in the city of New Orleans, to be duly subpœnaed as a witness to appear at the clerk's office of this honorable court on the 29th of November, 1884, at 11 o'clock a. m., then and there to testify the truth in the above-entitled suits, and on further suggesting that, as appears from the said subpœna and the marshal's return thereon, the said Geo. W. Weber was personally served with said subpœna and, notwithstanding such service, has failed to appear and testify as required by said subpœna—

It is ordered that a writ issue from this honorable court requiring the U. S. marshal of this district to attach the said George W. Weber and bring him when found forthwith before this honorable court to be dealt with as justice and equity may require, and that he may thereafter be brought before the clerk of this honorable court and compelled to testify the truth according to his knowledge in the within-entitled suits.

Nov. 29th, 1884.

(Signed) DON A. PARDEE, *Judge.*

Attachment issued November 4, 1885.

412 *Attachment. Issued to Geo. W. Weber November 29th,* 1884.

The President of the United States to the marshal of the eastern district of Louisiana or his lawful deputy, Greeting:

You are hereby commanded to attach and hold in your custody the body of George W. Weber so that he be and appear forthwith at a circuit court of the United States for the said eastern district of Louisiana, holden in the city of New Orleans on — day of ——, 187—, to show cause (if any he has or can) why he should not be fined according to law for non-attendance as witness in said court on this 29th day of November, 1884.

[SEAL.] Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 29 day of November, A. D. 1884, and 108th year of the Independence of the United States.

(Signed) E. R. HUNT, *Clerk.*

(Duplicate.)

Marshal's Return.

After diligent search and enquiry the within-named Geo. W. Weber could not be found. I was credibly informed that he is only occasionally in the eastern district of Louisiana, and after many efforts by day and night to find the said Geo. W. Weber I return the within writ not executed.

Nov'b'r 3, 1885.

(Signed) J. R. G. PITKIN, *U. S. Marshal,*
By E. S. WURZBURGER, *Deputy.*

413 *Attachment. Issued to Geo. W. Weber Nov* 4, 1885.

The President of the United States to the marshal of the eastern district of Louisiana or his lawful deputy, Greeting:

You are hereby commanded to attach and hold in your custody the body of Geo. W. Weber, 528 Philip street, New Orleans, La., so that he be and appear forthwith at a circuit court of the United States for the said eastern district of Louisiana, holden in the city of New Orleans, as soon as found, to show cause (if any he has or can) why he should not be fined according to law for non-attendance as a witness in said court on the 29th day of November, 1884.

[SEAL.] Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 4 day of November, A. D. 1885, and 110 year of the Independence of the United States.

(Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Rec'd Nov'r 4th, 1885, at the office of U. S. marshal for the E. D. of La., and after diligent search and enquiry the said Geo. W. Weber could not be found. I am credibly informed that the said Geo. W. Weber has moved out of the State and is now a permanent resident outside of this district.

(Signed) R. B. PLEASANTS, *U. S. Mar.,*
(Signed) JOHN BAKER, *Deputy U. S. Mar.*

414 *Defendant's Offerings.*

And the defendant, John Adden, offering the following evidence, viz:

1st. The testimony and evidence taken on behalf of John Adden, defendant, before E. R. Hunt, United States commissioner, on May 1st, 1884, being viz:

United States Circuit Court, Eastern District of Louisiana.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.*
} No. 10405.

Testimony taken on behalf of John Adden, defendant, before E. R. Hunt, Esq., United States commissioner, this 1st day of May, 1884.

Present: E. N. Whittemore and C. S. Kellogg, Esqrs., for John Adden, a defendant; Frank N. Butler, Esqr., for complainant.

Mr. Whittemore offers in evidence, on behalf of John Adden, the depositions of Eliab Parker, Albert P. Damon, Waldo E. Perkins, Isaac M. Clark, Edward F. Parker, and Wendell Bancroft, taken under commission dated April 5th, 1883.

To which testimony counsel for complainant makes the same objections now that were specifically set forth at the head of the
415 cross-interrogatories annexed to the commission or commissions under which said testimony was taken.

Mr. Whittemore also offers in the same behalf in the same case the depositions of Chester B. Jordan, Erastus V. Colbeigh, Jonas Powers, Edward F. Adden, Oscar F. Bothell, and Ossiam Ray, taken under commission dated April 5th, 1883.

To all of which the counsel for complainant reserve and urge the same objections that are specifically set forth in the paper containing the cross-interrogatories propounded to the witness annexed to said commission.

Mr. Whittemore also offers in the same behalf and in the same case the depositions of John H. Adden, A. V. Lyne, William W. Davis, Albert P. Damon, Eliab Parker, and S. E. Parker, taken under commission dated May 1, 1883.

To which counsel for complainant reserves and urges the same objections which are set forth in the paper containing the cross-interrogatories annexed to said commission.

Depositions of Eliah Parker, Albert P. Damon, Waldo E. Perkins, Isaac M. Clark, Edward F. Parker, and Wendell Bankrofft, taken under commissions dated April 5th, 1883, copied at page 99 of this transcript.

Depositions of Chester B. Jordan, Evantors V. Colbeyh, Jonas Powers, Edward F. Adden, Oscar F. Bothell, Ossiam Ray, taken under commission dated April 5th, 1883, and copied at page 124 of this transcript.

416 *Depositions of W. W. Davis, A. P. Damon, J. H. Adden, A. V. Lynde, and S. E. Parker and Eliab Parker, Taken under Commission Dated May 1st, 1883, and Filed November 24th, 1883.*

Commission. Issued May 1st, 1883.

Civil District Court for the Parish of Orleans.

The State of Louisiana to any judge, justice of the peace, magistrate, or Louisiana commissioner residing in the county of Middlesex, Mass., Greeting:

No. 5586.

Know ye that we, reposing confidence in your prudence and fidelity, do by these presents give unto you authority diligently to
417 examine all witnesses whatever, as well on the part of the plaintiff as of the defendants, in a certain suit now pending in the civil district court for the parish of Orleans, wherein John Michael Brewster Reynolds is plaintiff and John Adden *et al.* are defendants.

Witnesses: W. W. Davis, A. P. Damon, J. H. Adden, A. V. Lynde, and S. E. Parker and Eliab Parker.

Therefore we desire you that at certain times and places, by you

to be appointed for that purpose, you cause the said witnesses to come before you; that you then and there examine them apart upon their respective corporal oaths, first taken before you upon the Holy Evangelists; that you reduce their examinations to writing and cause the witnesses to sign the same, and when you shall so have taken them that you send the same, with this commission, closed up under your seal, to us, in our civil district court, in the city of New Orleans, without delay.

Witness the Honorable W. T. Houston, judge of said court, this 1st day of May, in the year of our Lord one thousand [SEAL.] eight hundred and eighty-three, and in the 107th year of the Independence of the United States.

(Signed) GEO. P. CAZELAR,
Deputy Clerk.

418 *Notes Numbered* 1 *to* 8, *Referred to and Annexed to Depositions, and also Notes Marked "A," "B," "C."*

No. 1.

$2,800.00. BOSTON, *April* 25, 1878.

Six months after date I promise to pay to the order of myself twenty-eight hundred $\frac{00}{100}$ dollars, payable at my office, in New Orleans, La., value received.

No. 277. Due Oct. 25–28. J. H. ADDEN.

Endorsed: One year's interest paid on the within. Paid interest on the within to Oct. 28, 1880. Paid interest on the within to Oct. 28, 1881. No. 5586. Civil dist. court. (1.) J. H. Adden. John Adden. P. J. S. 4, (3), '82. P. J. S. 4, (3), '82. Filed April 3, 1882. P. J. Sullivan, d'y cl'k.

No. 2.

$2,852.64. BOSTON, *June 17th*, 1878.

Six months after date I promise to pay to the order of myself twenty-eight hundred and fifty-two $\frac{64}{100}$ dollars, payable at my office, in New Orleans, La., value received.

No. 281. Due Dec. 17–20. J. H. ADDEN.

419 Endorsed: One year's interest paid on the within. Paid interest on the within to Dec. 20, 1880. Paid interest on the within to Dec. 20, 1881. No. 5586. Civil district court. (2.) J. H. Adden. John Adden. P. J. S. 4, (3), '82. Filed April 3, '82. P. J. Sullivan, d'y cl'k.

No. 3.

$2,800.00. BOSTON, *June 7th*, 1878.

Six months after date I promise to pay to the order of myself twenty-eight hundred $\frac{00}{100}$ dollars, payable at my office, in New Orleans, La., value received.

No. 280. Due Dec. 7–10. J. H. ADDEN.

Endorsed: One year's interest paid on the within. Paid interest on the within to Dec. 20, 1880. Paid interest on the within to Dec. 10, 1881. No. 5586. Civil dist. court. (3.) J. H. Adden. John Adden. P. J. S. 4, (3), '82. P. J. S. 4, (3), '82. Filed April 3, '82. P. J. Sullivan, d'y cl'k.

No. 4.

$1,666.66. NEW ORLEANS, *May 29th*, 1878.

On Oct. 30th, after date, I promise to pay to the order of
420 John Adden sixteen hundred and sixty-six $\frac{66}{100}$ dollars, value received, with eight per cent. interest per annum from maturity until paid, at 5 Magazine street, N. O.

J. H. ADDEN.

Endorsed: Three years' interest paid on the within. No. 5586. Civil dist. court. (4.) John Adden. P. J. S. 4, (3), '82. P. J. S. 4, (3), '82. Filed April 3, '82. P. J. Sullivan, d'y cl'k.

No. 5.

1,666.67. NEW ORLEANS, *May 29th*, 1878.

On Sept. 17th, after date, I promise to pay to the order of John Adden sixteen hundred and sixty-six $\frac{67}{100}$ dollars, value received, with eight per cent. interest per annum from maturity until paid, at 5 Magazine St., N. O.

J. H. ADDEN.

Endorsed: Three years' interest paid on the within. No. 5586. Civil district court. (6.) John Adden. P. J. S. 4, (3), '82. P. J. S. 4, (3), '82. Filed April 3, '82. (Signed) P. J. Sullivan, d'y cl'k.

No. 6.

$1,666.67. NEW ORLEANS, *May 29th*, 1878.

421 On Oct. 7th, after date, I promise to pay to the order of John Adden sixteen hundred and sixty-six & $\frac{67}{100}$ dollars, valued received, with eight per cent. interest per annum from maturity until paid, 5 Magazine St., N. O.

J. H. ADDEN.

Endorsed: Three years' interest paid on the within. No. 5586. Civil dist. court. (5.) John Adden. P. J. S. 4, (3), '82. P. J. S. 4, (3), '82. Filed April 3, '82. P. J. Sullivan, d'y cl'k.

No. 7.

$2,800.00. BOSTON, *May 22nd*, 1878.

Six months after date I promise to pay to the order of myself twenty-eight hundred $\frac{00}{100}$ dollars, payable at my office, in New Orleans, La., value received.

No. 279. Due Nov. 22–25. J. H. ADDEN.

Endorsed: One year's interest paid on the within. Paid interest on the within to Nov. 25, 1880. Paid interest on the within to Nov. 25, 1881. No. 5586. Civil dist. court. (7.) J. H. Adden. John Adden. P. J. S. 4, (3), '82. P. J. S. 4, (3), '82. Filed April 3, '82. P. J. Sullivan, d'y cl'k.

No. 8.

422 $2,800.00. BOSTON, *May* 8, 1878.

Six months after date I promise to pay to the order of myself twenty-eight hundred $\frac{00}{100}$ dollars, payable at my office, in New Orleans, La., value received.

No. 278. Due Nov. 8–11. J. H. ADDEN.

Endorsed: One year's interest paid on the within. Paid interest on the within to Nov. 11, 1880. Paid interest on the within to Nov. 11, 1881. No. 5586. Civil dist. court. (8.) J. H. Adden. John Adden. P. J. S. 4, (3), '82. P. J. S. 4, (3), '82. Filed April 3, '82. P. J. Sullivan, d'y cl'k.

"A."

$2,100.00. BOSTON, *July* 5, 1878.

Six months after date I promise to pay to the order of myself twenty-one hundred dollars, payable at my office, in New Orleans, La., value received.

No. 282. Due Jan'y 5–8. J. H. ADDEN.

Endorsed: One year's interest paid on the within. Paid interest on the within to Jan'y 8th, 1881. Paid interest on the within to Jan. 8, 1882. (A.) J. H. Adden. John Adden. No. 5738. C. D. C. Filed April 4, '82. J. Brandao, d'y cl'k.

423 "B."

$2,083.10. BOSTON, *July* 22*nd*, 1878.

Six months after date I promise to pay to the order of myself two thousand and eighty-three $\frac{10}{100}$ dollars, payable at my office, in New Orleans, La, value received.

No. 283. Due Jan. 22–25. J. H. ADDEN.

Endorsed: One year's interest paid on the within. Paid interest on the within to June 25, 1881. (B.) J. H. Adden. John Adden. No. 5738. C. D. C. Filed April 4, '82. J. Brandao, d'y cl'k.

"C."

$2,100.00. BOSTON, *Aug.* 1*st*, 1878.

Six months after date I promise to pay to the order of myself twenty-one hundred dollars, payable at my office, in New Orleans, La., value received.

No. 284. Due Feb'y 1–4. J. H. ADDEN.

Endorsed: One year's interest paid on the within. Paid interest on the within to Feb'y 4, 1881. (C.) J. H. Adden. John Adden. No. 5738. C. D. C. Filed April 4, '82. J. Brandao, d'y cl'k.

424 *Interrogatories. Filed May* 1, 1883.

Civil District Court for the Parish of Orleans.

JOHN MICHAEL BREWSTER REYNOLDS
vs.
JOHN ADDEN *et al.*
No. 5586.

Interrogatories to be propounded to W. W. Davis, A. P. Damon, J. H. Adden, A. V. Lynde, and S. E. Parker, witnesses residing in Middlesex county, Massachusetts, and to Eliab Parker, witness residing in Boston, Massachusetts, the testimony of which witnesses is to be taken under the annexed commission, and to be read in evidence on the trial of the above cause in behalf of the defendant, John Adden.

Interrogatory 1st. What is your name, age, occupation, and place of residence, and how long have you resided there?

Interrogatory 2nd. State whether or not you know the defendant, John Adden. If yea, how long have you known him?

Interrogatory 3rd. State whether or not said John Adden is a married man. If yea, when and where was he married to his present wife, and where was she living at the time of marriage?

425 Interrogatory 4th. State whether or not said John Adden had a family residence in Reading, Massachusetts. If yea, state whether or not he sold said family residence; and, if yea, when.

Interrogatory 5th. State whether or not said John Adden and his wife moved away from Reading, Massachusetts; if yea, state when and where to and what they moved.

Interrogatory 6th. If you say that said John Adden and his wife moved away from said Reading to Lancaster, New Hampshire, state whether or not they took with them their household and kitchen effects, and furniture, beds, and bedding.

Interrogatory 7th. Where was the home of said John Adden and his wife during the years 1876, 1877, 1878, 1879, 1880, and 1881?

Interrogatory 8th. Of what State was said John Adden a citizen during said years?

Interrogatory 9th. Of what State was said John Adden a citizen on March 10th, 1882, and March 11th, 1882?

Interrogatory 10th. Where was the home of said John Adden and his wife on March 10th, 1882, and March 11th, 1882?

Interrogatory 11th. State whether or not said John Adden
426 and his wife have been keeping house in Lancaster, New Hampshire. If yea, when did they begin so keeping house, and how long have they been so keeping house?

Interrogatory 12th. State whether or not said John Adden or his

wife owns a family residence in Lancaster, New Hampshire. If yea, how long has such family residence been so owned, and who now owns such family residence?

Interrogatory 13th. State whether or not said John Adden and his wife have been keeping house in said family residence. If yea, when did they move into it, and how long have they been keeping house in it?

Interrogatory 14th. Where is said John Adden's wife now?

Interrogatory 15th. If you say that said John Adden's wife is now in a lunatic asylum at Concord, New Hampshire, state when she was put in such asylum and where from.

Interrogatory 16th. State whether or not you have visited said John Adden at his residence in Lancaster, New Hampshire. If yea, when?

Interrogatory 17th. Of what State is said John Adden now a citizen?

427 Interrogatory 18th. How long has she been such citizen?

Interrogatory 19th. Except when absent attending to business for John H. Adden in New Orleans, Massachusetts, and elsewhere, of what State has said John Adden been a resident and inhabitant for the last six years?

Interrogatory 20th. Look at the eight notes hereto annexed and marked 1 to 8, inclusive, and also marked Filed April 3, '82, by P. J. Sullivan, d'y cl'k, and amounting, in the aggregate, to $19,052.64, and state who signed said notes as maker, and whether or not John H. Adden endorsed those numbered 1, 2, 3, 7, and 8; and state when and where said notes were made; and state whether or not said notes were delivered to said John Adden; and, if yea, state by whom and for what consideration and where they were made payable when so delivered; and state whether or not said notes or either of them have been paid; and state whether or not anything has been paid on said notes other than the interest thereon endorsed; and state whether or not new notes have been given for said notes or either of them, and whether or not said notes are now due and owing; and, if yea, to whom; and state in whose handwriting are said

428 notes in their body.

Interrogatory 21st. Look at the three notes hereto annexed and marked A, B, & C, and also marked Filed Ap'l 4, '82, by J. Brandao, d'y cl'k, and amounting in the aggregate to $6,283.10, and state who signed said notes as maker, and whether or not John H. Adden endorsed them; and state when and where said notes were made; and state whether or not said notes were delivered to said John Adden; and, if yea, state by whom and for what consideration and where they were made payable when so delivered; and state whether or not said notes or either of them have been paid; and state whether or not anything has been paid on said notes other than the interest thereon endorsed; and state whether or not new notes have been given for said notes or either of them, and whether or not said notes are now due and owing, and, if yea, to whom; and state in whose handwriting is the body of said notes.

Interrogatory 22nd. State whether said eight notes and said three

notes were given in good faith and for a valid consideration and are still due and owing, or whether they were gotten up be-
429 tween said John Adden and John H. Adden for the purpose of defrauding, delaying, and hindering the creditors of John H. Adden.

Interrogatory 23rd. State whether or not there has been any fraud or connivance between said John Adden and John H. Adden.

Interrogatory 24th. State whether or not the witnesses W. W. Davis and Eliab Parker have been in the employ of John H. Adden; if yea, state when and where, how long, and in what capacity.

Interrogatory 25th. State whether or not you were present at a meeting of the creditors of John H. Adden on March 23rd, 1882; if yea, state where said meeting was held and who were present thereat.

Interrogatory 26th. State whether or not said John Adden said anything at said meeting as to his having attached property of John H. Adden in New Orleans.

Interrogatory 27th. State whether or not said John Adden stated publicly at said meeting that he had attached property of John H. Adden in New Orleans.

Interrogatory 28th. State whether or not the plaintiff, John Michael Brewster Reynolds, was present at said meeting.

Interrogatory 29th. If you say that at said meeting said
430 John Adden stated publicly that he had attached property of John H. Adden in New Orleans, say whether or not such statement was made within the hearing of said Reynolds and of various creditors of John H. Adden.

Interrogatory 30th. State whether or not said Reynolds was informed prior to April 12th, 1882, that said John Adden had attached property of John H. Adden in New Orleans. If yea, state when he was so informed.

Interrogatory 31st. State any fact or facts within your knowledge tending to show that said Reynolds was informed prior to April 12th, 1882, that said John Adden had attached property of John H. Adden in New Orleans.

Interrogatory 32nd. State whether or not John H. Adden ever made a personal deed or assignment under section 74 of chapter 157 of the Public Statutes of the Commonwealth of Massachusetts enacted November 19th, 1881. If yea, state when, and annex copy thereof.

Interrogatory 33rd. Who have been the partners of John H. Adden in business since 1865?

Interrogatory 34th. Where are the Boston commercial books
431 of John H. Adden which have been in use within the last ten years, and in whose possession are they or any of them?

Interrogatory 35th. State whether or not such books have been accessible to said Reynolds; and, if yea, since when?

Interrogatory 36th. State whether or not said Reynolds could have informed himself concerning the notes hereto annexed, dated in Boston, by examining such books.

Interrogatory 37th. State what books, if any, of John H. Adden were destroyed by the great fire in Boston, and when.

Interrogatory 38th. When was said John Adden last in Boston, and how long did he remain there?

Interrogatory 39th. State whether or not John H. Adden is indebted to said John Adden. If yea, state to what amount, and what is the nature and origin of such debt, and state whether or not the notes hereto annexed represent part of such debt.

Interrogatory 40th. If you know anything of benefit to said John Adden which you have not already stated please state the same as fully and particularly as if specially interrogated thereto.

(Signed) C. S. KELLOGG AND
E. N. WHITTEMORE, *Att'ys.*

432 *Cross-Interrogatories to W. W. Davis, A. P. Damon, J. H. Adden, A. V. Lynde, and Stillman E. Parker. Filed May 1st, 1883.*

Division B, Civil Dist. Court, Parish of Orleans.

J. M. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et als.*
No. 5586.

Reserving all legal objections to the interrogatories herein propounded by counsel for defendant, John Adden, to W. W. Davis, A. P. Damon, J. H. Adden, A. V. Lynde, and S. E. Parker and to any answers that may be given thereto, and especially objecting to interrogatories 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 and to any and all answers to said interrogatories which tend to show that John Adden resided in March, 1882, elsewhere than in the State of Massachusetts, counsel for J. M. B. Reynolds, assignee, propound to each of said witness the following cross-interrogatories.

To all the witnesses except John H. Adden:

Cross-interrogatory first. What is your age? Where have you ever resided? State each place, and how long you remained there. In what business have you been engaged? State each business, and how long you were in it. Did you ever fail in business? If so, when? How often. Did you owe John Adden or John H.
433 Adden at the time of such failure? If you owed either of them, how much did you owe them or either of them? Have you paid such indebtedness? When? In what manner? How much did you pay? Do you owe them or either of them anything now? Do you know one John Lane? If yea, do you owe him anything? How much? Are you related to John Adden or John H. Adden in any way? If yea, what is the relationship? Are you connected with them or either of them by marriage? What is the connection? State it particularly.

To all the witnesses:

Cross-interrogatory second. What has been John Adden's business since you have known him? Describe exactly what he has

been doing in business ever since that time. Have you done so? Did he not manage the business of John H. Adden at No. 58 Custom-House street, New Orleans, Louisiana, from the time of its establishment at that place to the date of John H. Adden's surrender under the insolvent laws of Massachusetts, in March, 1882?

To all the witnesses:

Cross-interrogatory third. Did you make any of the endorsements which indicate payment of interest on the notes or on any of the notes referred to in the 20th and 21st interrogatories? If yea, state when and where you made each of said endorsements? Was the interest paid to John Adden by John H. Adden at the time each endorsement was so made? If yea, state exactly the way and
434 manner and where the interest was so paid to John Adden? Did you pay it to him personally? Were you present when any of said interest was so paid? Did you see it paid at any time? If you say you did not make any of the endorsements on said notes which indicate interest payments thereon, did you see such endorsements or any of them made? In whose handwriting are said endorsements? Are they not all in the handwriting of George W. Weber? Did you see him make them? Did you see him make any of them? If yea, which did you see him make? When and where did he make them? Who told him to do it? Will you swear they were not all made at the same time by George W. Weber? Will you swear that at the time they were made the money was actually paid to John Adden by John H. Adden for the full amount of the interest accrued at the time? Have you pointed out each of the endorsements indicating interest payments on said notes which you saw Geo. W. Weber make? How much money did you ever see John Adden paid for interest on said notes? State particularly the time and amount of each interest payment that you made or saw made to John Adden on account of said notes. State who else was present, to your knowledge. Have you done so?

To all the witnesses:

Cross-interrogatory fourth. If, in answer to the 20th, 21st, and 22nd interrogatories, you state anything about the origin, consideration, or delivery of the notes referred to therein, you will also state every fact and circumstance within your personal knowledge
435 in relation thereto, how you derived such knowledge, at what time, and from whom. Have you done so fully and without any reservation whatever? Did you learn what you have testified to from John Adden? Did you learn it or any portion of the facts or statements you have made from John H. Adden? If yea, state what you learned from each of those parties. Have you done so? What amount, to your personal knowledge, did John Adden pay John H. Adden on each or any of the following dates, viz., April 25th, May 8th, 22d, and 29th, June 7th and 17th, and August 1st, 1878? Did you see him pay John H. Adden anything on any of those dates? If yea, state when and what you saw him pay John H. Adden on each of said dates. What was the amount and

how was each payment made, to your personal knowledge? State everything you know personally as to the origin, consideration, and delivery of said notes. State fully and in detail your personal knowledge of the origin of said notes. Have you done so? State fully and in detail all you personally know of the consideration of each of said notes. Have you done so? Tell all you know about the delivery of said notes. Have you done so? Did John Adden ever, to your knowledge, demand payment of said notes? If yea, when, how, where, and how often, to your personal knowledge?

To all the witnesses:

Cross-interrogatory fifth. If you testify anything as to the origin of John Adden's alleged claim against his son or as to its existence as a debt against him, you will state everything you know
436 personally in relation thereto. Have you done so? Where were you when said claim originated? Give the date of its origin. Where were you employed at that time? In what capacity? By whom? At what salary? What was the original consideration of the alleged indebtedness? Explain it fully. How much money was actually turned over at that time to John H. Adden by John Adden? How much stock in trade was then delivered? What was its actual value at the time? Where was it? Describe it fully and in every particular.

Have you done so? What accounts, notes, drafts, bills, and claims of John Adden were at that time transferred to John H. Adden? What means of his own had John H. Adden in 1865? Give the amount and the source from which he derived the same. Have you done so fully and particularly without any reservation? How old were you in 1865? How long and in what capacity had you then been in business? What salary did you then receive? How do you know John H. Adden's means in 1865? How did you ascertain about his financial condition at that time? What was John Adden's purpose in transferring his business to his son, John H. Adden, in 1865 or about that time? What object did he have in doing so? Do you know personally why he then gave up doing business in his own name? Was he embarrassed financially at that time? What was the amount of his assets and what did he owe when he claims to have sold out to his son, John H. Adden? Tell everything you know about the transfer from John Adden to John H. Adden in or about the year 1865. Have you done so? State everything that was included in that transfer. Have you
437 done so? State the means that John H. Adden then had to pay John Adden for the property and business thus transferred, the amount of his means and how they were acquired, and how you know what you testify to in relation thereto. In what did John H. Adden's means consist just before he bought his father out? State particularly. Have you done so of your own personal knowledge? What was his salary and what had it been just prior thereto? From whom did he receive his salary? How do you know its amount? State all you know of your personal knowledge of the

consideration of the notes referred to in interrogatories 20 and 21. Have you done so?

Special cross-interrogatory to John H. Adden: Did you not testify, when examined in your insolvency in Massachusetts, that your father said he had no claim to urge against you, or words to that effect? Do you know George W. Weber? How long have you known him? When and where did you last see him? When did you write to him last? What about? Have you a copy of any of your letters to George W. Weber? If yea, annex to your answers to these interrogatories copies of every letter that you ever wrote George W. Weber. Have you ever received any letters from Geo. W. Weber? If yea, have you any of such letters in your possession or under your control? You are now called on to annex to your answers every letter in your possession or under your control that you have received from said Geo. W. Weber. Have you done
438 so? Did you have copies of any of your letters to said Weber or did you have any of said Weber's letters to you when you first heard of these interrogatories coming forward? Have you recently destroyed any of said letters? Have you in your possession or under your control any letters from your father, John Adden? Have you in your possession or under your control any copies of letters from you to your father? If you have any such letters or copies you are now called upon to annex the same to your answers to these interrogatories. Have you destroyed any such letters since your surrender in insolvency? What steps have you ever taken to defeat your father's efforts to have the assets of John H. Adden in Louisiana appropriated to the payment of his claim against you to the prejudice of your other creditors? Have you sent any instructions to George W. Weber in reference to your father's suits against you here in Louisiana? If yea, when? Annex a copy of your said letters to your answers. Have you done so? If you have not annexed copies of such letters, why have you not? When you were informed of the actions now pending against you in Louisiana by the attorney appointed to represent you, what steps did you take to advise said attorney as to the defense to be made in reference to said suits? Did you write to said att'y? If so, annex copies of your said letters. Have you done so? Explain fully and particularly everything you have done to defeat your father's attachments and seizures of the assets which you surrendered when you took the benefit of the insolvent laws of Massachusetts so as to enable your creditors and the assignees
439 to get possession of said assets. Have you so explained everything without reservation?

Special cross-interrogatory to Stillman E. Parker: Are you not a brother-in-law of John Adden? Did he not sign your bond as surety for ten thousand dollars to enable you to qualify as assignee of John H. Adden under the insolvent laws of Massachusetts? Did you not qualify as an assignee of said insolvent estate? Have you not in such capacity taken possession with your co-assignee of some of the assets of said estate? If yea, describe what of said assets have come into your possession as such assignee. What steps have you

taken to defeat the attachments and seizures made by John Adden of property belonging to the insolvency of his son, John H. Adden? Why have you not taken steps to defeat such attachments and seizures? Give every reason you have for not proceeding to make John Adden release and turn over the assets of John H. Adden to you and your co-assignee, J. M. B. Reynolds. Have you given every reason for not taking steps to defeat said seizures? For whose interest or advantage have you acted in thus permitting John Adden to proceed without interruption or objection on your part as an assignee of John H. Adden to attach and seize the bulk of John H. Adden's insolvent estate? Do you know George W. Weber? Did you see him often when you were in New Orleans in April and May, 1882? Were you not during that time often in the store of J. H. Adden, at No. 58 Custom-House street, New Orleans? Was not George W. Weber there during that period? What was he doing there? In what capacity was he employed? Did he handle
440 the books of J. H. Adden when you were in the store? Did he have the safe key of the establishment, to your knowledge? Did you ever see him go to the safe and put the books and papers of J. H. Adden in there and take them out as occasion required? Was he not frequently at the books and accounts of the concern as a book-keeper? Did he make collections, to your knowledge? Did John Adden sometimes, while you were at No. 58 Custom-House street, handle the books and papers of the concern? Did he not go to the safe and take therefrom books and papers and examine same? Did John Adden, to your knowledge, during that time have a key to the safe of the establishment? Did you call on John Adden or Geo. W. Weber for the key of the safe at No. 58 Custom-House street? Did you ask them or either of them for the assets in their possession? If not, why did you not? Did not John Adden room with you while you were in New Orleans in April and May, 1882? Where did you room? Did you not both sleep in the same bed? Did you not generally take your meals together? Did you not refuse to join your co-assignee, J. M. B. Reynolds, in his efforts to avoid the seizures made by John Adden of the stock of goods at No. 58 Custom-House street? Did you not avoid doing anything that would tend to jeopardize John Adden's suits and seizures against John H. Adden in Louisiana? What did you do to hinder or prevent John Adden in his suits and seizures against J. H. Adden in New Orleans, La.? State everything you did. Have you done so?

To all the witnesses:

General cross-interrogatory. Has any one spoken to you
441 about giving your answers to the interrogatories and cross-interrogatories hereinbefore propounded before your coming forward to be examined? Have you seen, previous to your examination, or have you had read to you the originals or copies of said interrogatories and cross-interrogatories or any of them? If yea, who has spoken to you about your said answers? Name each person. Have you done so? What was said to you on the subject by

such person or persons? Tell everything that was so said. Have you done so? Did you prepare or were there prepared for you the answers which you should give or any of them to the foregoing interrogatories and cross-interrogatories or any of them? If yea, point out which of your answers were so prepared in whole or in part. Who prepared them and what portion was so prepared? State particularly.

(Signed) BLANC & BUTLER,
Attorneys for J. M. B. Reynolds, Assignee.

Depositions of witnesses produced, sworn, and examined on the days hereinafter stated at my office, in Boston, in the Commonwealth of Massachusetts, under and by virtue of the annexed commission, issued out of the civil district court for the parish of Orleans, to take depositions in a certain cause pending and at issue between John Michael Brewster Reynolds, plaintiff, and John Adden *et al.*, defendants, No. 5586.

442 *Deposition of John H. Adden.*

JOHN H. ADDEN, who, being first duly sworn on the Holy Bible, on this 7th day of May, 1883, doth depose and say as follows:

First. In reply to the 1st interrogatory he saith: My name is John H. Adden; age, 46 years; residence, Reading, Mass., where I have made my home for 46 years; formerly in the boot and shoe business; now doing nothing.

In reply to the 2nd interrogatory he saith: Have known him ever since I can remember.

In reply to the 3rd interrogatory he saith: He is; was married about 1870 to his present wife, who then lived in Lancaster, New Hampshire.

In reply to the 4th interrogatory he saith: Yes; he did have, but sold it in 1878, I think.

In reply to the 5th interrogatory he saith: They moved away from Reading, Mass., to Lancaster, New Hampshire, in the fall of 1874, where they have since lived, except the time when said John has been away on business, and excepting the time when his wife has been in the insane asylum at Concord. They moved furniture, household goods, housekeeping effects, beds and bedding, and all their household property from said Reading to said Lancaster at that time.

443 In reply to the 6th interrogatory he saith: Yes; they took all their furniture, household goods, kitchen effects, bed and bedding, with them to Lancaster.

In reply to the 7th interrogatory he saith: It was in Lancaster, New Hampshire.

In reply to the 8th interrogatory he saith: New Hampshire.

In reply to the 9th interrogatory he saith: New Hampshire.

In reply to the 10th interrogatory he saith: Lancaster, New Hampshire.

In reply to the 11th interrogatory he saith: John Adden and his present wife have been keeping house in New Hampshire ever since they moved there, in 1874, excepting, perhaps, the time when his wife has been in the insane asylum at Concord, N. H. Since June, 1882, John Adden has lived in Lancaster or Northumberland, New Hampshire.

In reply to the 12th interrogatory he saith: They do; John Adden or his wife own a family residence in Lancaster, New Hampshire, which was purchased in 1874 or about the time they moved there, and is now owned by them.

444 In reply to the 13th interrogatory he saith: They moved into it about 1874, and have ever since lived there and kept house.

In reply to the 14th interrogatory he saith: She is in the insane asylum at Concord, New Hampshire.

In reply to the 15th interrogatory he saith: She was placed in said lunatic asylum June, 1882, from Lancaster, New Hampshire, where she had resided previously.

In reply to the 16th interrogatory he saith: I visited John Adden at his residence, in Lancaster, New Hampshire, in the fall of 1882—September or October, I think.

In reply to the 17th interrogatory he saith: New Hampshire.

In reply to the 18th interrogatory he saith: Since 1874, when he went there to reside.

In reply to the 19th interrogatory he saith: New Hampshire.

In reply to the 20th interrogatory he saith: John H. Adden did sign all those notes and endorsed those numbered 1, 2, 3, 7, 8. Those numbered 1, 2, 3, 7, 8 were made by me in my office, in Boston, or about their dates, and also by me endorsed. Those

445 numbered 4, 5, 6 were made and signed by me at my office, in New Orleans, La, All of said notes were delivered by me or my book-keepers to John Adden on or about the dates they bear, at stated times. When I made a settlement with John Adden the notes and other indebtedness were averaged up and new notes given for them. The consideration for them was renewals of other notes, money loaned, interest, and salary for services. They were made payable at the times, dates, and places as appear thereon. They are now all overdue, and no payments have been made thereon on account thereof, either for interest or otherwise, except as appear thereon endorsed. No new notes have been given for any of them or any part of them. All of the said notes are due and owing to the owner and holder of them, John Adden. Those numbered 1, 2, 3, 7, and 8 are in the handwriting of my former book-keeper in Boston, Eliab Parker. Those numbered 4, 5, 6 are in the handwriting of E. P. Lhute (my former book-keeper), of New Orleans formerly, but now dead.

In reply to the 21st interrogatory he saith: Said notes were made, signed, and endorsed by me at my office, in Boston. They are in the handwriting of my book-keeper (Eliab Parker), by whom they were delivered to John Adden. They are all now overdue and owing

to the owner and holder of them, John Adden. No other
446 notes have ever been in place of them. Their consideration
was money loaned. None of said notes have been paid and nothing has been received on or on account of them, except as appears on them endorsed, and no new notes given for any of them or any part of them.

In reply to interrogatory 22nd he saith: They were all given for a valuable consideration and are now due and owing, and were not gotten up for the purpose of delaying, defrauding, or hindering any one of the creditors of said John H. Adden.

In reply to the 23rd and 24th interrogatories he saith: There has been no fraud or connivance between said John and John H. They have both been in the employ of J. H. Adden—W. W. Davis from 1865 to 1871 or thereabouts, except about 6 months about 1870, when he was West, excepting one year, when he was book-keeper in my factory. He was book-keeper. Eliab Parker was in my employ as book-keeper from 1870 or thereabouts till 1881, and a part of the time from then till March, 1883.

In reply to the 25th interrogatory he saith: I was present at said meeting. Besides the court and officers, there was present, among
others, A. E. Eastman, who appeared as counsel for E. & A.
447 H. Batchelder & Co., and took a part in the meeting. John Michael Brewster Reynolds, A. P. Damon, Stillman E. Parker, John Lane, R. W. Emerson, and others were also present at the meeting.

In reply to the 26th interrogatory he saith: He did state that he had attached said John H. Adden's estate in New Orleans.

In reply to the 27th interrogatory he saith: Yes; he did state publicly before the court at said meeting that he had attached property of John H. Adden in New Orleans.

In reply to the 28th interrogatory he saith: He was.

In reply to the 29th interrogatory he saith: The statement referred to was made in open court and within the range of hearing of every one in the room—certainly within hearing distance of John Michael Brewster Reynolds, who was then present at the time it was made, as also A. E. Easyman, att'y for E. & A. H. Batchelder & Co. and others. Mr. Eastman was standing near at the time, and either he or W. N. Mason, counsel for some of the creditors, was putting inquiries to Mr. Adden, and this remark came out in the course of the examination, and they must have heard the statement, if they were not deaf.

448 In reply to the 30th interrogatory he saith: Yes; he was; at the meeting of my creditors, March 23rd, 1882, John Michael Brewster Reynolds, A. E. Eastman, att'y of E. & A. H. Batchder & Co. and others, creditors, all of them being present. I said, upon enquiries put to me by either W. N. Mason or said Eastman—I stated that John Adden had attached my property in New Orleans and brought suit against me. This statement was made in open court and within the hearing of said Reynolds.

In reply to the 31st interrogatory he saith: I made the statement about the said attachment, and John Adden made statement about

said attachment, both of us in open court and in such a key that any one without an impediment in hearing could have understood perfectly what was said by both of us. This was made at the meeting before referred to, M'ch 23, 1882.

In reply to the 32nd interrogatory he saith: I have signed all deeds and papers which the court and the assignees, John M. B. Reynolds included, requested me to do, but do not recollect signing a personal deed, such as referred to in your enquiry.

In reply to the 33rd interrogatory he saith: Ogden George and Bernard Hufft.

In reply to interrogatory 34th he saith: I presume they
449 are in the hands of the assignees of J. H. Adden's estate. I left them in his safe when the assignees took possession of it, and I have not seen them since then.

In reply to the 35th interrogatory he saith: Yes; they have been since March 23rd, 1882. Mr. Reynolds had access to them, more properly speaking, several days after said March 23rd, as his bond was not perfected till then, so I have been informed; but they, the books and papers, were at his disposal as assignee immediately after his appointment.

In reply to interrogatory 36th he saith: Yes; he could have, as far as I know.

In reply to interrogatory 37th he saith: I cannot state particularly what ones were lost, but a great many of my books of account were destroyed in the Boston fire of Nov. 9, 1872.

In reply to interrogatory 38th he saith: Last March, 1883; five days in or about Boston, perhaps.

In reply to interrogatory 39th he saith: John H. Adden is indebted to said John Adden in the sum of $45,000 or more. It is for money loaned, for interest, for merchandise, accounts and services, and said notes represent a part of said indebtedness. In 1862 John
Adden went to New Orleans with a large stock of shoes,
450 where he and one Ogden George opened a store and carried on the boot and shoe business, Mr. George remaining in New Orleans till 1865, and Mr. John Adden returning in the summer of 1862. Mr. John H. Adden purchased and manufactured boots and shoes and shipped them to Ogden George in said New Orleans weekly and from time to time, where Mr. George sold them to very good advantage.

In 1865 the partnership was formed between Mr. John H. Adden and Ogden George, Mr. John Lane furnishing Mr. George, his son-in-law, with necessary capital and John Adden selling his interest in goods, merchandise, and accounts in his New Orleans and Boston stores to his son, John H. Adden, John H. giving his father his notes in settlement of the transaction, which is the origin of John H.'s indebtedness to John Adden. The notes referred to in said interrogatory are either renewals or else for new notes for interest and money loaned or services rendered. I cannot answer more specifically without reference to my books. In 1867 Mr. George died, and his interest in the business was looked after by his father-in-law, Mr. John Lane. In 1871 I formed a partnership with one Bernard

Hufft, Mr. J. H. Adden attending to the buying and manufacturing and shipping of shoes from Boston to New Orleans and the
451 South, and Mr. Hufft remaining in New Orleans and attending to that end of the business. Hufft continued as a partner till 1875, when the copartnership was dissolved. From 1875 till the date of my insolvency I conducted the business, both in Boston and New Orleans, Mr. John Adden acting for me as agent, on a salary, at the time.

In reply to the 40th interrogatory he saith: Nothing except that John Adden's claim against said John H. Adden is a just, true, and legal claim, has never been paid or discharged, in part or otherwise, except as appears by the endorsements on said notes, and is now overdue and payable to him. Said claim or notes or any part thereof have not been proved against my estate at any of my insolvency meetings or hearings or at any time; that they all are justly due and payable except as before stated. John Adden has never proved any claim against my estate in insolvency. I testified in a hearing in insolvency that I thought he had offered for proof a part of his claim, but upon examination I find he has not, and that I was mistaken. I confounded his claim with that of E. F. Adden's.

In reply to cross-interrogatory 2nd he saith: Shoe business. He, with one Geo. W. Webber, managed in my absence a part of
452 my business at 58 Custom-House St., New Orleans, from its establishment there till March, 1882, on a salary, as my books show.

In reply to the 3rd cross-interrogatory he saith: I don't think I made any of the endorsements of interest on the notes referred to, but cannot state more specifically without reference to my books, in the hands of my assignees in insolvency; all payments on account of the notes should appear on my books. The interest referred to was probably paid by my agents, and endorsements made by them on the notes, they having power of attorney to act for me in New Orleans. Mr. Weber may have made some of the endorsements referred to. I may have been present, but do not remember. I do not think the endorsements were all made at the same time, but were made at different times, I do not doubt.

In reply to cross-interrogatory 4th he saith: A great part of this interrogatory I have answered already. In regard to the payments referred to I cannot make answer specifically without referring to my books, which are in the hands of my assignees. In regard to the consideration of said notes, I will say again that renewals of old notes, interest, money loaned, and services rendered went to make them up. I have stated heretofore about the origin of my
453 indebtedness to my father and the notes. Either I or my book-keeper delivered said notes to my father. I think I have answered the rest of this interrogatory before.

In reply to the 5th interrogatory he saith: I was in Boston at the time of the origin of the indebtedness, which was in 1865, when my father sold out to me. From 1862 to 1865, in the business of manufacturing shoes and buying for shipment South. The original consideration was, perhaps, $30,000, and was for merchandise, accounts,

money; the accounts were partly in Boston and partly in New Orleans. I cannot state the exact amount of each without reference to books. The shoe stock for manufacture was in Boston; the shoes manufactured were partly in Boston and partly in New Orleans, and the accounts likewise. I had at that time, 1865, about $5,000 to $10,000 over and above all liabilities, I should say, of my own, which I had made previously in the shoe business. I had been in business 5 years at least before then (1865). Mr. John Adden's purpose in transferring his business to his son, John H. Adden, in 1865 was to assist him in forming a partnership with Ogden George. Mr. John Adden was not financially embarrassed at that time, and has not been since then, 1865. He had
454 large assets over and above all his liabilities, consisting of merchandise, real estate, and other property. In the transfer referred to was included merchandise, manufactured shoes and in process, and accounts. John H. Adden had about $10,000 of assets to pay for this transaction, with, besides, of course, the articles themselves included in this transaction. The business at that time was a profitable one. John H. Adden was in business for himself at this time, and not on a salary. As before stated, the consideration of said notes was for renewals, interest, services, and money loaned.

In reply to special cross-interrogatory to John H. Adden he saith: No; but I said substantially, among other things, that my father had brought a suit on his claim against me and attached my stock of goods in New Orleans. I know George W. Weber, should think, at least 5 years; saw him last in New Orleans perhaps 2 or 3 years ago; do not recollect when I wrote him last; in March, 1882, perhaps. I have no copies of letters to him that I know of, but probably my assignees have. When assignees came into possession they took all my books and letters I then had of his, and I have not seen them since to examine them. I have no copies of letters to Weber. I presume my letter books which my assignees have may contain some copies. I have none of his letters in my possession or
455 control that I remember. I have had no letters from Weber or copies of the same at the time I first heard of these interrogatories coming forward. I have not recently destroyed any of said letters. I had none to destroy that I know of. I have no letters or copies from my father since 1881, that I remember, and no copies of any sent to him written by me since that date. I think there may be some of his letters among the papers in the possession of my assignees. I may have destroyed a few from my father within the time specified. It is my custom to destroy letters of no great importance after reading them. At the first meeting of my creditors at which A. E. Eastman, att'y for E. & A. H. Batchelder & Co., John Michael Brewster Reynolds, and others were present I stated in open court, in hearing of them all, that my father had brought suit against me and attached, and afterwards wrote to my father requesting him to withdraw his suit against me. I do not recollect writing Geo. W. Weber except as I have before stated. I may have, but do not remember now. I have no copies of letters to him that I know of. When my assignees were appointed they had notice of

the pending of the suits spoken of, and I did not consider any further notice to them from myself necessary. I have done everything the court and my assignees there requested me to do in the matter of insolvency.

456 In reply to the general cross-interrogatory he saith: I had not heard read or seen these or copies of these interrogatories before coming forward to answer them before the justice. They were answered and prepared by me, the justice first propounding them to me.

(Signed) JOHN H. ADDEN.

Subscribed and sworn to this 8th day of May, 1883, before me—

(Signed) A. SELWYN LYNDE,

Justice of the Peace for all the Counties of the Commonwealth of Massachusetts, and Residing in Middlesex County, in said Commonwealth.

Deposition of A. V. Lynde.

A. V. LYNDE, who, being first duly sworn on the Holy Bible, on this 9th day of May, 1883, doth depose and say as follows:

To the first interrogatory he saith: Alonzo V. Lynde; Melrose, Massachusetts; counsellor-at-law; resided in Melrose last 26 years.

To the 2nd Int.: I have known him about 20 years.

To the 3rd Int: He is a married man, I have been in-

457 formed; but when married I do not know, and do not know his wife's residence at time of her marriage.

To the 4th Int.: I do not know.

To the 5th Int.: Personally I do not know, only from hearsay, when they moved.

To the 6th Int: I do not know except by hearsay.

To the 7th Int.: In Lancaster, New Hampshire, I am informed.

To the 8th Int.: New Hampshire.

To the 9th Int.: New Hampshire, I am informed.

To the 10th Int.: Lancaster, New Hampshire.

To the 11th Int.: I do not know.

To the 12th Int.: I am informed his wife owns a residence there.

To the 13th Int.: I cannot state exactly.

458 To the 14th Int.: She is in an insane asylum in New Hampshire.

To the 15th Int.: I am informed from New Hampshire, but the time I do not know.

To the 16th Int.: I saw him in the summer of 1882 in Lancaster, New Hampshire, at his residence there.

To the 17th —: New Hampshire, I suppose.

To the 18th Int.: Eight years or more, I should think.

To the 19th Int.: New Hampshire, I suppose.

To the 20th Int.: I only know the handwriting of the maker and endorsers. They are signed by J. H. Adden and endorsed, part of them by J. H. Adden and part of them by John Adden. Further than that I know nothing.

To the 21st Int.: I only know the handwriting of the maker and endorsers, who are J. H. Adden and John Adden, respectively. I know nothing further.

459 To the 22nd Int.: I do not know.

To the 23rd Int.: Nothing to my knowledge.

To the 24th Int.: I do not know except by hearsay.

To the 25th int.: I was present at said meeting, which was held in the court of insolvency, at Cambridge, Massachusetts. John Adden, J. H. Adden, John Michael Brewster Reynolds, the Court, Walter N. Mason, Esq., counsel for some of J. H. Adden's creditors; also Ambrose Eastman, Esq., counsel of E. & A. H. Batchelder & Co.; S. E. Parker, John Lane, myself, and others.

To the 26th Int.: He did. He said to the court, in presence of said Eastman, Mason, the judge of the court, Parker, Reynolds (J. M. B.), myself, and others, that he had attached the stock of goods and all the property of J. H. Adden in New Orleans in a suit brought by him against him there.

To the 27th Int.: He did.

To the 28th Int.: John Michael Brewster Reynolds and

460 said Eastman were present.

To the 29th Int.: Eastman and said Reynolds were present and within hearing distance when said statement was made in open court to the judge. Whether Batchelders were present I do not know, as I am unacquainted with them, but said Walter N. Mason and other creditors of John H. Adden were. I also informed said Reynolds of said attachment, I think, before April 3rd, 1882.

To the 30th Int.: I have stated as fully as I can above.

To the 31st Int.: I think of nothing further than before stated.

To the 32nd Int.: Never that I know of, and has not been requested to do so by his assignees, to my knowledge.

To the 33rd Int.: I do not know.

To the 34th Int.: They are in the possession of his assignees, I am informed.

To the 35th Int.: I do not know, but think they have.

461 To the 36th Int.: I do not know.

To the 37th Int.: I cannot.

To the 38th Int.: About the middle of March, 1883. He remained several days.

To the 39th Int.: Personally I do not know, but I suppose the said notes do represent a part of the indebtedness.

To the 40th Int.: I have no doubt that John H. Adden is indebted to John Adden in the sum of over $40,000 for loans, merchandise payments for him, expenses, and services rendered, all of which is now overdue. The notes referred to in interrogatories 21st and 22nd have not been proved in insolvency against J. H. Adden's estate, and as far as I know have not been offered for proof.

In reply to cross-interrogatory first said deponent saith: I am 59 years old; resided in Melrose, Mass., the last 26 years; before that in Stoneham, Mass., since birth; am and have been practicing law the past 35 years in Boston, Mass.; prior to that was teacher for parts of three years; never failed in business; never owed John or John

H. Adden; am not related to them or connected by marriage
462 with either. I know John Lane; never owed him anything.

To the 2nd cross-int.: John Adden's business has been that of a trader—buying and selling shoes and merchandise in Massachusetts and the South personally. Whether he managed John H. Adden's business in Louisiana I do not know.

To the 3rd cross-int.: I know nothing personally.

To the 4th cross-int.: I know nothing further than stated in prior answers.

To the 5th cross-int.: In 1865 I was 41 years old. I cannot answer more fully than I have already.

To the general cross-interrogatory to all the witnesses he saith: No one but the justice taking this deposition has spoken to me about it. He asked me to give my deposition, and that was the substance of all he said. I made the answer to the above interrogatories and cross-interrogatories. No one prepared them for me. I have not had them or copies of them read to me before taking this deposition.

(Signed) ALONZO V. LYNDE.

Sworn to and subscribed before me this the ninth day of
463 May, 1883.

(Signed) A. SELWYN LYNDE,
Justice of the Peace for all Counties of the Commonwealth of Massachusetts, and Residing in the County of Middlesex, in the Commonwealth of Massachusetts Aforesaid.

Deposition of Wm. W. Davis.

WILLIAM WALLACE DAVIS, who, being first duly sworn on the Holy Bible, on the 10th day of May, 1883, doth depose and say as follows:

In reply to the 1st interrogatory he saith: Wm. Wallace Davis; 40 years; my lifetime occupation, civil engineering and farming.

In reply to 2nd Int.: I know him, and have known him my lifetime.

In reply to the 3rd Int.: He is a married man; married somewhere in the vicinity of Northumberland, N. H.

In reply to the 4th Int.: He had one there, but I do not know when he sold it.

In reply to the 5th Int.: He moved away some years ago;
464 do not know where, to my personal knowledge.

In reply to the 6th Int.: I don't know, sir.

In reply to the 7th Int.: I don't know positively.

In reply to the 8th Int.: I don't know.

In reply to the 9th Int.: I don't know.

In reply to the 10th Int.: I can't say.

In reply to 11th Int.: That I don't know.

In reply to the 12th Int.: I don't know anything about that.

In reply to the 13th Int., 14th, and 15th Ints.: I don't know.

In reply to the 16th Int.: No, sir; I have never visited him at Lancaster.

In reply to the 17th, 18th, 19th Ints.: I don't know and can't say.

465 In reply to the 20th Int.: I know nothing about said notes, only that the signature and endorsements spoken of are in John H. Adden's handwriting.

In reply to the 21st Int.: I do not recognize the writing in the body of the notes, but the signatures and endorsements are in the handwriting of John H. Adden.

In reply to the 22nd Int.: I cannot state further than that I know that John H. Adden was owing his father heavily at the time of my keeping his books. At one time during my period as book-keeper he was owing the old gentleman, John Adden, in the neighborhood of $40,000.

In reply to the 23rd Int.: Not that I know of.

In reply to the 24th Int.: I was in his employ as book-keeper from the fall of 1865 to the fall of 1870; Jan'y, 1871, to Jan'y, 1872, as foreman and assistant in his business. Eliab Parker was in the employ of said John H. Adden from some time in 1871 or 1872 to within a year or two. I cannot state more definitely now.

466 In reply to the 25th Int. and 26th, 27th, 28th, and 29th Ints.: I was not at the meeting and do not know anything about what occurred there.

In reply to the 30th Int.: I don't know.

In reply to the 31st, 32nd Ints.: I don't know.

In reply to the 33rd Int.: Ogden George and Bernard Hufft.

In reply to the 34th Int.: I don't know.

In reply to the 35th Int.: I don't know.

In reply to the 36th Int.: I don't know.

In reply to the 37th Int.: I don't know further than that the vault in which most of the books were kept was destroyed in the great Boston fire, 1872.

In reply to the 38th Int.: I don't know.

467 In reply to the 39th Int.: He was indebted to John Adden at one time when I was book-keeper for him some $40,000, which I understood to have been for money loaned, goods, and services. About the notes enquired of I cannot speak, as they were given after I left.

In reply to the 40th Int.: I know that John H. Adden has been heavily indebted to his father, and was so when I left his employ. After 1872 business was not so profitable, and J. H. A. & Co. made a great many bad debts.

In reply to cross-interrogatory first he saith: My age, 40 years; have resided in Reading all my life, except when I was in the army. At 20 years of age I went to war, where I was absent for 2 or 3 years; then to Boston custom-house a few months in 1865, and then to work for J. H. Adden till the fall of 1870, keeping books; then went West drumming trade some months in the fall of 1870; then to work again for J. H. Adden till about Nov. 1st, 1872, when I left and went into civil engineering and farming, which I have followed

ever since. I never failed in business; did not owe John or John H. Adden at the time of his failure. I know John Lane. I owe him nothing. I am no connection by marriage or otherwise with any one of them.

468 In reply to the 2nd cross-interrogatory: He has been in the shoe business all his life. I don't know whether he managed J. H. Adden's business at the time referred to or not.

In reply to cross-interrogatory 3rd: I don't know anything further about it than I have before stated.

In reply to cross-interrogatory 4th: I don't know anything further about it than I have before stated.

In reply to cross-interrogatory 5th: I cannot state the origin of the claim referred to any further than I have before stated. I do not know exactly when it did originate. The consideration of it was as I have before stated. I cannot remember about the transaction further than that John H. owed his father large sums of money at the time I was there as book-keeper. I have stated my age before; also my business career; don't remember what my salary was at the origin of the claim. John H. Adden's financial condition in 1865 I only know about from what he told me himself and from examination of his books. He was then perfectly solvent by his books and his credit was good. John Adden at that time was perfectly solvent *at that time*, as far as I know. I regarded him as worth considerable property. He had made money prior to 1865. His object in selling out to his son I do not know. I do not know the

469 amount of his assets at that time. In regard to John H. Adden's assets, I cannot state what they consisted of at that time. I don't think John H. had a salary at that time, for he was in business for himself. I cannot state more fully in reply to this question.

In reply to the "general cross-interrogatory:" No one spoke to me about giving answers. The justice before — this is taken sent me word to come in and give my answers to them. I have not seen or heard read any of the interrogatories or cross-interrogatories or copies of any of them before giving my answers. The answers are made myself, and were not prepared by any one else.

(Signed) WILLIAM W. DAVIS.

Sworn to and subscribed before me this 10th day of May, 1883.

(Signed) A. SELWYN LYNDE,

Justice of the Peace for all Counties of the Commonwealth of Massachusetts, and Residing in the County of Middlesex, in the Commonwealth of Massachusetts.

Deposition of A. P. Damon.

A. P. DAMON, who, first being duly sworn on the Holy Bible, on this 11th day of May, 1883, doth depose and say as follows:

470 In reply to the first interrogatory he saith: My name is Albert P. Damon; age, 46 years; reside in Reading, Mass.;

resided there 36 years. My business is a merchant and manufacturer of gentlemen's furnishing goods.

In reply to the 2nd Int.: Do know him; have known him 25 years at least.

In reply to the 3rd Int.: He is. Married to present wife some time in 1869 or 1870, I think, in Lancaster, N. H.

In reply to the 4th Int.: He did have a residence there; sold it within 3 or 4 years from the time he moved from Reading, I think.

In reply to the 5th Int.: They moved away from Reading about 1874, to Lancaster, New Hampshire. They moved their household goods and personal effects with them to Lancaster, New Hampshire.

In reply to the 6th Int.: They did take with them their household effects and kitchen utensils, beds, and bedding.

In reply to the 7th Int.: Lancaster, New Hampshire.

In reply to the 8th Int.: New Hampshire.

471 In reply to the 9th Int.: New Hampshire.

In reply to the 10th Int.: Lancaster, New Hampshire.

In reply to the 11th Int.: They have; since about 1874.

In reply to the 12th Int.: They do; since about 1874, I should say.

In reply to the 13th Int.: They have been keeping house a number of years; I should say as many as 7 years.

In reply to the 14th Int.: In New Hampshire, I think.

In reply to the 15th Int.: I have heard she was in an insane asylum in Concord, N. H. She was put in there some time last year, from Lancaster, New Hampshire.

In reply to the 16th Int.: I have visited him at Lancaster, New Hampshire, some time in 1877 or 1878.

In reply to Int. 17th: New Hampshire.

In reply to the 18th Int.: Since he went there, in 1874.

472 In reply to the 19th Int.: New Hampshire.

In reply to the 20th Int.: I know nothing further about them than that they are signed. (Numbers) 1, 2, 3, 7, 8 are endorsed by J. H. Adden, whose signature I know, and as appears on them.

In reply to the 21st Int.: I know J. H. Adden's handwriting, and the notes and endorsements are in his handwriting. I know nothing further about them except as appears on them.

In reply to the 22d Int.: I don't know.

In reply to the 23rd Int.: None, to my knowledge.

In reply to the 24th Int.: Mr. Davis was a book-keeper for J. H. Adden some time before 1875. Mr. Parker was book-keeper for J. H. Adden some time in the seventies and up to Mr. Adden's insolvency.

In reply to the 25th Int.: I was; at Cambridge, Mass., in the court-house; John Adden, J. H. Adden, A. V. Lynde, Stillman E. Parker, a Mr. Eastman, who represented E. & A. H. Bachelder & Co.; a lawyer by the name of Mason, who assisted Mr. East-

473 man; John Michael Brewster Reynolds, Mr. Emerson, a shoe manufacturer; Mr. Jacob Ames, and others were present at said meeting.

In reply to the 26th Int.: He did.

In reply to the 27th Int.: Yes; he did.

In reply to the 28th Int.: He was.

In reply to the 29th Int.: He did make a statement to that effect and within the hearing of Eastman and Reynolds.

In reply to the 30th Int.: John Adden stated at said March 23rd meeting that he had attached John H. Adden's property in New Orleans. This statement was made in open court, in the presence and hearing of said Eastman, Reynolds, and other creditors.

In reply to the 31st Int.: I know nothing further than stated.

In reply to the 32nd Int.: I don't know.

In reply to the 33d Int.: Ogden George was a partner and
474 Bernard Hufft was a partner after Ogden George's death.

In reply to the 34th Int.: I don't know, but suppose his assignees have them.

In reply to the 35th Int.: I don't know.

In reply to the 36th Int.: I don't know.

In reply to the 37th Int.: I do not know what books he lost, further than the fact that his store was burned down and many of his books and papers were burned up in the Nov., 1872, fire in Boston.

In reply to 38th Int.: March, 1883, a few days in and about Boston.

In reply to the 39th Int.: I know he is indebted to a very large amount to John Adden; cannot give origin of the indebtedness; presume these notes represent a part of his indebtedness.

In reply to the 40th Int.: I know that John H. Adden has owed his father the past few years large sums of money.

In reply to cross-interrogatory first: Age, 46 years; resided in Reading all my life except 5 years when in Lancaster, Mass.,
475 and 5 years when out West; in business of manufacturing gent's furnishing goods since 1865. Previous to that time I was salesman and book-keeper at various places. I went through the Chicago, 1871, and Boston, 1872, fires, being burned out clean in both of them; was burned out again in Boston fire of 1873; paid my creditors in full, 100 cents on a dollar, until 1880, when I failed for the first and only time in my business life. I paid my creditors at my failure 47 cents on a dollar. I did not owe John or John H. Adden anything at the time of the failure. I owe John H. Adden nothing at the present time. I know John Lane; owe him; do not know exactly how much at this moment. John Adden is my father-in-law and John H. is my brother-in-law.

In reply to cross-interrogatory 2nd: John Adden since I have known him has been engaged in the boot and shoe business. The past few years he has managed his son's business in New Orleans, perhaps since Mr. Hufft went out—so I am told.

In reply to the 3rd cross-interrogatory: I know nothing about the notes except as before stated.

In reply to the 4th cross-interrogatory: I know nothing about said notes except as before stated.

476 In reply to cross-interrogatory 5th: I do not know the time of the origin of said indebtedness; cannot state the amount

of John H. Adden's means at time referred to. I was 28 years old in 1865; was employed as a salesman at a store in Worcester, Mass., on a salary of $1,100 per year; do not know John H. Adden's means in 1865; do not know his father's object in transferring business to his son, unless it was to assist him in business. I do not know why he gave up doing business unless he wanted a rest. He was not financially embarrassed at the time, as far as I know; do not know what his assets were or his indebtedness, if any. I heard nothing further about the transfer; do not know — what John H. Adden's means consisted prior to 1865. I know nothing further that I could state in reply to this interrogatory.

In reply to general cross-interrogatory: No one has shown me the originals or copies of these interrogatories and cross-interrogatories or read either to me, and as for my answers I prepared them and gave them myself to the justice as he propounded the interrogatories and cross-interrogatories to me. No one has talked to me about —. The justice is the only person who has communicated with me about them, and he only to ask me to call at his office to make answers to them.

(Signed) A. P. DAMON.

Subscribed and sworn to before me this 11th day of May,
477 1883.

(Signed) A. SELWYN LYNDE,
Justice of the Peace for all the Counties of the Commonwealth of Massachusetts, and Residing in Middlesex County, in said Commonwealth.

Deposition of Eliab Parker.

ELIAB PARKER, who, first being duly sworn on the Holy Bible, on this 12th day of May, 1883, does depose and say as follows:

In reply to the first interrogatory he saith: My name is Eliab Parker; age, 29 years; resided in Boston past 4 or 5 years. I am a book-keeper by occupation.

In reply to the 2nd Int.: I do; have known him about 11 years.

In reply to the 3rd Int.: He is married; don't know when or where married.

In reply to the 4th Int.: He did; sold it about 1877, I think.

In reply to the 5th Int.: They moved to Lancaster, N. H., about 1874; took their furniture with them.

478 In reply to the 6th Int.: I think they took most of their furniture.

In reply to the 7th Int.: Lancaster, New Hampshire.

In reply to the 8th Int.: He had a home in Lancaster, New Hampshire, and his wife was living there then.

In reply to the 9th Int.: He had a home at Lancaster, New Hampshire, all this time, and his wife was living there.

In reply to the 10th Int.: Lancaster, New Hampshire.

In reply to the 11th Int.: They have. I think they began in

1874 and have been so keeping house until his wife went to the hospital.

In reply to the 12th Int.: They do own a family residence in Lancaster, N. H., and have so owned it since about 1874.

In reply to the 13th Int.: They have been keeping house in it. They moved in about 1874.

In reply to the 14th Int.: I think she is in the hospital.

479 In reply to the 15th Int.: I don't know when she was put in. There is no doubt in my mind she was put in from Lancaster, New Hampshire.

In reply to the 16th Int.: I have; about the summer of 1877 or 1878.

In reply to the 17th Int.: New Hampshire.

In reply to the 18th Int.: He has had his home there 8 or 9 years.

In reply to the 19th Int.: New Hampshire.

In reply to the 20th Int.: John H. Adden made the notes and signed them and endorsed those numbered 1, 2, 3, 7, 8, which are in my handwriting in the body. Those numbered 1, 2, 3, 7, 8 were made in Boston. The other three, 4, 5, 6, were made in New Orleans, signed by John H. Adden, but the body of them are in the handwriting of E. P. Shute. Those numbered 1, 2, 3, 7, 8 were delivered to John Adden by John H. Adden, but those numbered 4, 5, 6 I cannot swear to. The consideration of them was money loaned or due. They were made payable at New Orleans. They have not been paid in full or part, except as appears by the interest endorsements thereon. No new notes have been given for them to my knowledge, and they are all due and owing to John Adden,

480 as far as I know. Those numbered 1, 2, 3, 7, 8 were made in the summer of 1878, from average dates. The other three I do not know about their dates.

In reply to the 21st Int.: John H. Adden signed and endorsed them; the body of them were in my handwriting; they were made in Boston, in the summer of 1878, and were delivered to John Adden by John H. Adden; consideration of them, money due; they were made payable in New Orleans, La.; they have not been paid in full or part or either of them, and no interest except as appears endorsed thereon. No new notes have been given for them or either of them, and they are all due and payable to John Adden, as far as I know.

In reply to the 22nd Int.: They were given in good faith, for a valuable consideration, and are overdue.

In reply to the 23rd Int.: Not to my knowledge.

In reply to the 24th Int.: They have. Mr. Davis, prior to 1872, and I worked for him from 1872 to 1881 as book-keeper.

In reply to the 25th Int.: I was present at said meeting. It was held at the court-house at Cambridge, Mass. Both Mr. John and John H. Adden, John Lane, S. E. Parker, A. V. Lynde, and

481 a lawyer representing E. & A. H. Bachelder & Co. and other creditors were present at said meeting.

In reply to the 26th Int.: I don't know. I don't remember what

he said. He was on the witness stand some time and made some statements. What they were I don't remember.

In reply to the 27th Int.: I don't know, but what he did state was said publicly in open court and in the presence of his son's creditors.

In reply to the 28th Int.: John Michael Brewster Reynolds was present, and also an attorney who represented E. & A. H. Bachelder & Co.

In reply to the 29th Int.: Whatever John Adden stated was said publicly and within the hearing of all.

In reply to the 30th Int.: I know nothing further about it.

In reply to the 31st Int.: I know nothing further.

In reply to the 32nd Int.: I don't know.

In reply to the 33rd Int.: Ogden George and Mr. Hufft.

482 In reply to the 34th Int.: They are in his assignees' possession.

In reply to the 35th Int.: I think they have.

In reply to the 36th Int.: He could.

In reply to the 37th Int.: A number of boxes of books of Mr. Adden's were destroyed by the November, 1872, fire. I cannot specify particularly; only that they were regular books of account of his business.

In reply to the 38th Int.: I don't know.

In reply to the 39th Int.: John H. Adden is indebted to his father in a very large sum. These notes enquired about represent a part of his indebtedness. The indebtedness originated at the settlement of the business for 1865 and prior thereto, and since then there has been additions to it for other money loaned, interest, and services rendered.

In reply to the 40th Int.: I know that John Adden has loaned John H. Adden large sums of money which have never been repaid, and also that he has rendered John H. valuable services which John H. has not paid him for or recompensed him for.

483 In reply to the first cross-interrogatory: My age is 29 years; resided in North Reading 24 years; in Boston about 5 years; been a book-keeper the past 12 years. I have never failed in business. I owe neither John Adden or John H. I know John Lane. I owe him nothing. I am not related to either, — am I connected with by marriage either John or John H. Adden.

In reply to the 2nd cross-int.: Since I have known him he has been engaged on a salary working for John H. Adden. He has looked after his son's business at No. 58 Custom-House St., New Orleans.

In reply to the 3rd cross-int.: I know nothing positive about it.

In reply to the 4th — Int.: What I know about the matters which I have spoken of is from observation and having had the care of Mr. Adden's books and from my personal business relations with him. John Adden had an account on John H. Adden's books for money loaned, services rendered, interest due, and sundries, which was settled usually by notes. The notes numbered 1, 2, 3, 7, 8, heretofore mentioned, were in one settlement, and the notes

marked "A," "B," "C" were in another. Their consideration was partially renewals of old notes, money loaned, interest, and sundries. The settlements were usually made by averaging up, dated, and giving notes for an even number of months—say on six
484 months. I cannot say when John Adden demanded payment of said notes, but, as he knew John H.'s financial condition, he did not insist at the time, hoping for better times to come by waiting.

In reply to the 5th cross-int.: I have stated all I know about origins John H. Adden's indebtedness to his father in prior answers. In 1865 I was in North Reading going to school. I have been told that John H. Adden bought out his father's business, and that it was the beginning of his indebtedness to him. I know nothing about the transfer, either what was turned over or its value, but I suppose a part of it was in Boston. I do not know John H. Adden's means in 1865, or what derived from. I was about 12 years old at this time and had not been in business. I do not know John Adden's purpose in transferring business to his son unless it was to assist him; don't know his purpose in giving up business in 1865 unless he wanted a rest. I do not know about his financial condition or that of his son, John H., at that time. I know nothing further than I have heretofore stated.

In reply to the general cross-int.: No one has spoken to me about giving my answers to these interrogatories except the justice who takes this deposition, and he only to ask me to come to his office and make answer to them. I have not seen or heard read pre-
485 vious to my coming forward for examination either these interrogatories or cross-interrogatories or copies of them or any parts of them. The answers were made and prepared by myself as the interrogatories and cross — were propounded to me.

(Signed) ELIAB PARKER.

Subscribed and sworn to this 15th day of May, 1883, before me—

(Signed) A. SELWYN LYNDE,

Justice of the Peace for all Counties of the Commonwealth of Massachusetts, and Residing in Middlesex County, in said Commonwealth.

Deposition of S. E. Parker.

S. E. PARKER, who, being first duly sworn on the Holy Bible, on this 14th day of May, 1883, doth depose and say as follows:

In reply to the first interrogatory he saith: My name is Stillman E. Parker; age, 63 yrs.; residence, Reading all my life.

In reply to the 2nd Int.: Have known him 50 years.

In reply to the 3rd Int: He is married. I think they were
486 married at Lancaster, New Hampshire. She was living at Lancaster at time of marriage.

In reply to the 4th Int.: He had a residence in Reading; sold it 8 years or more ago.

In reply to the 5th Int.: They moved away from said Reading to

Lancaster, New Hampshire, about 8 years ago. Their household goods went with them.

In reply to the 6th Int.: I did not see the goods go, but I know they went.

In reply to the 7th Int.: Lancaster, New Hampshire.

In reply to the 8th Int.: New Hampshire.

In reply to the 9th Int.: New Hampshire.

In reply to the 10th Int.: Lancaster, New Hampshire.

In reply to the 11th Int.: They have from the time they moved there to the time Mrs. John Adden went to the asylum.

In reply to the 12th Int.: He or his wife owns it; have owned it some years.

487 In reply to the 13th Int.: Some years; cannot state how long I was there; 3 years ago, and they were keeping house in it then.

In reply to the 14th Int.: The last I knew she was in the asylum at Concord, New Hampshire.

In reply to the 15th Int.: She was put in said asylum at Concord some time last year; from Lancaster.

In reply to the 16th Int.: I have; about three years ago.

In reply to the 17th Int.: New Hampshire.

In reply to the 18th Int.: Since the time he moved up there.

In reply to the 19th Int.: New Hampshire.

In reply to the 20th Int.: I can only say that I know J. H. Adden's handwriting, and he appears to have signed them and endorsed some of them.

In reply to the 21st Int.: The notes appear to be signed and endorsed by J. H. Adden. I know nothing further about them except as stated.

488 In reply to the 22nd Int.: I don't know.

In reply to the 23rd Int.: None that I know of.

In reply to the 24th Int.: They have both been in his employ.

In reply to the 25th Int.: I was present part of the meeting. It was held at the court-house, Cambridge, in the insolvency court room. Among those present were John Adden, John Lane, John Michael Brewster Reynolds, a lawyer from Natick, whose name I do not recall, and a lawyer employed by E. & A. H. Bachelder & Co., and others.

In reply to the 26th Int.: He stated at each meeting he had.

In reply to the 27th Int.: He stated publicly while on the stand that he had attached John H. Adden's property in New Orleans.

In reply to the 28th Int.: He was present at said meeting.

In reply to the 29th Int.: It was made publicly in the presence and hearing of Mr. Reynolds and the lawyer who represented E. & A. H. Bachelder & Co. and other creditors. Mr. Reynolds
489 at the time was sitting nearer Mr. Adden than I was, and as I heard the statement distinctly I think Reynolds must have also.

In reply to the 30th Int.: While in New Orleans in April or May, 1882, Mr. John Michael Brewster Reynolds stated to me that he had

an impression that he had heard somewhere before of this attachment of John Adden's.

In reply to the 31st Int.: I know nothing further than stated before.

In reply to the 32 Int.: He has signed all papers we have asked him to. I do not remember about the deed referred to.

In reply to the 33rd Int.: Ogden George and Hufft.

In reply to the 34th Int.: As far as I know they are in the hands of J. H. Adden's assignees.

In reply to the 35th Int.: They have since the appointment as assignee.

In reply to the 36th Int.: I think he could.

In reply to the 37th: I know nothing further than that he
490 had a lot of books destroyed by the great Boston fire of 1872.

In reply to the 38th: He was in Boston some time this spring.

In reply to the 29th Int.: He is indebted to his father to a large amount.

In reply to the 40th Int.: I am satisfied that John H. Adden is indebted to his father to a very large amount.

In reply to cross-interrogatory 1st: My age is 63 years; lived in Reading all my life; been engaged in shoe manufacturing business last 30 years. I failed in business 1860 or 1861, the time of the war. I also failed in 1881, about six months, I think, after John Michael Brewster Reynolds' 2nd or 3rd failure and insolvency. I owed John Adden nothing at the time of said failure. There was a disputed account between me and John H. Adden for a small amount, not exceeding $30. I owe them nothing at the present time. I know John Lane. I owe him nothing. John Adden married my sister, who died in 1838. John H. Adden is my sister's son.

In reply to the 2d cross-interrogatory: He has been in the shoe business and connected with it in different ways many years. I cannot speak as to Mr. John Adden's with the 58 Custom-house
491 St. matter. I do know that J. Adden was in Mobile some time; cannot state definitely of my own personal knowledge about it.

In reply to the 3rd cross-int.: I know nothing except what I have before stated about it.

In reply to the 4th cross-int.: I know nothing except as before stated about it.

In reply to the 5th cross-int.: I was 45 years old in 1865; in the shoe manufacturing business; had been in business then about 10 years. I know nothing further than already stated.

In reply to special cross-interrogatory to Stillman E. Parker he saith: I am a brother-in-law of John Adden; he signed my bond. I do not remember the amount. We have taken possession of the property of John H. Adden at the shoe factory, Pearl street, Boston; of personal property at Reading. I have taken no means to defeat the suit of John Adden, for the reason that the Bachelders have brought suit in New Orleans to that end, and if they are successful there will not be the necessity of a 2nd suit, as what they

gain will enure to the benefit of all John H. Adden's creditors. I did not think it advisable to go to additional expense to accomplish that which Bachelders' suit was expected to. I think I have thus far acted for the general interest of all the creditors. I have
492 desired that the personal property in Boston should be turned into money instead of being allowed to depreciate in value while on storage, and I have often tried to get Reynolds to do something about disposing of it, but he has neglected, if not refused, to do anything about it. I know Geo. W. Weber. I saw him for the first time while in New Orleans in April and May, 1882. I was often in the store formerly of J. H. Adden's, on Custom-House street. Weber was in and out. Sometimes he would come to the store one day; then I would not see him again for a week or more. He was not doing anything particular at the times I saw him. I don't know what books he handled, or whether he had the safe key to the establishment or not. I cannot state positively about the books, papers, collections, &c., referred to in this enquiry. When I first arrived in New Orleans, upon going to the store, I met the sheriff, who told me he had attached everything in it belonging to J. H. Adden, and he then showed me a list of the property that he had charge of, which included about everything in the store. Mr. Reynolds arrived in New Orleans a day or two before me. I could do nothing until the Adden suit was disposed of. I did all I could, I think, under the circumstances. I went down to New Orleans to take possession of J. H. Adden's property, but when I arrived at the store was met by the sheriff, who was in possession. I could do nothing
493 until the suits and attachments under John Adden's and others were disposed of. I sometimes dined at the same place with Mr. Adden and other of my friends, but not always. I roomed at a private family. I do not remember the number or street. I did not desire to make unnecessary expense to the estate, or I might have put up at the St. Charles or some other expensive hotel. Nothing was said by Reynolds to me about bringing suit until after the Bachelders had brought theirs, when he one day asked me to join them. I said to him in reply that I was glad they had brought suit, for we had no money to carry on a suit with, and one suit would do for all. I think I have answered above the rest of the enquiries in this interrogatory.

In reply to the general cross-interrogatory he saith: I have not seen these or copies of these interrogatories and cross-interrogatories or any of them or heard read any of them before coming before the justice to whom I made these answers. The justice before whom these answers are made is the only person, and he only stating that he had some interrogatories in "the John Adden cases" for me to answer. The answers are my own, not prepared for me by any one other than myself.

(Signed) STILLMAN E. PARKER.

Subscribed and sworn to this 14th day of May, 1883, before me—

(Signed) A. SELWYN LYNDE,

494 *Justice of the Peace for all the Counties of the Commonwealth of Massachusetts, and Residing in Middlesex County, in said Commonwealth.*

(Symbol of Commonwealth.)

COMMONWEALTH OF MASSACHUSETTS,
SECRETARY'S DEPARTMENT, BOSTON, *May* 16, 1883.

I hereby certify that Benjamin F. Butler is Governor of the Commonwealth of Massachusetts, and that his signature to the certificate hereunto annexed is genuine.

In testimony whereof I have hereunto affixed the seal of the Commonwealth the date first above written.

[SEAL.] (Signed) HENRY B. PEIRCE,
Secretary of the Commonwealth.

COMMONWEALTH OF MASSACHUSETTS,
BOSTON, *May 16th*, 1883.

I hereby certify that at the date of the attestation hereto annexed A. Selwyn Lynde was a justice of the peace for the
495 said Commonwealth, duly commissioned and constituted; that to all his acts and attestations as such full faith and credit are and ought to be given in and out of court; that I know his signature to be genuine, and that said justice of the peace is by law authorized to act in any county of this Commonwealth, and that by the public statutes of this Commonwealth the secretary *is* the Commonwealth is made the custodian of the State seal.

[SEAL.] In testimony of which I have hereunto affixed my hand and seal the date first above written.

(Signed) BENJ. F. BUTLER,
Governor of Massachusetts.

I, A. Selwyn Lynde, one of the justices of the peace within and for the Commonwealth of Massachusetts, do certify that I caused W. W. Davis, A. P. Damon, J. H. Adden, A. V. Lynde, S. E. Parker, and Eliab Parker, witnesses hereinbefore named and examined, to appear before me at the time and place above named, and, after publicly and solemnly swearing each separately on the Holy Bible to tell the truth, the whole truth, and nothing but the truth in answer to the annexed direct and cross interrogatories, I then and there proceeded to examine each separately by propounding to him the said direct and cross interrogatories and reducing in my presence and that of the witness his answers thereto in writing with my
496 own hand, and I then caused each witness to sign his deposition in my presence, as already stated.

In testimony whereof I have hereunto set my hand on this fifteenth day of May, 1883.

(Signed) A. SELWYN LYNDE,
Justice of the Peace within and for the Commonwealth of Massachusetts, and Residing in Middlesex County, in said Commonwealth.

Fees:

Taking six depositions, 5 days----	$50 00
Witness fees ----------	12 50
	$62 50

497 Decree on the motion to remand copied at page 174 of this transcript.

Certificate of Clerk of this Court, Dated November 26th, 1883, and Filed in the State Court November 26th, 1883.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Circuit, Eastern District of Louisiana.

J. B. REYNOLDS, Assignee,
vs.
JOHN ADDEN *et al.*
} No. 10405.

Cause removed from the civil district court for the parish of Orleans.

CLERK'S OFFICE.

I, Francis A. Woolfley, clerk of said court, do hereby certify that a duly certified copy of the record in said above-entitled cause
498 was filed in this office on the 5th day of November, A. D. 1883, that being the first day of the November term, A. D. 1883, of this court.

And I further certify that on the motion of said plaintiff, duly entered and filed, to remand said cause to the said State court, this court, upon and after due hearing of the said motion, made and entered an order on the 26th day of November, 1883, refusing the same in the words and figures following, to wit:

"This cause came on to be heard on the motion of the plaintiff to remand the same to the civil district court for the parish of Orleans, and was argued by counsel.

"On consideration whereof it is ordered that the said motion be refused, and that the cause do proceed in this court according to law."

[SEAL.] Witness my hand and seal of said court, at New Orleans, this 26th day of November, 1883.

(Signed) F. A. WOOLFLEY, *Clerk.*

Eight notes annexed to the commission, dated May 1st, 1883, and numbered 1, 2, 3, 4, 5, 6, 7, & 8, copied at page 418 of this transcript.

Three notes annexed to the same commission, and marked A, B, & C, copied at page 422 of this transcript.

Depositions of Stillman E. Parker, Albert P. Damon, J. H. Adden, Edward F. Adden, Alonzo V. Lynde, Eliab Parker taken under commission dated January 5, 1886.

499 *Commission. Issued January 5th*, 1886.

UNITED STATES OF AMERICA:

Circuit Court of the United States for the Fifth Judicial Circuit, Holding Sessions in and for the Eastern District of Louisiana.

To any judge, justice of the peace, magistrate, notary public, or Louisiana commissioner at Boston:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you Stillman E. Parker, Albert P. Damon, J. H. Adden, and Edward F. Adden, all of Reading, Massachusetts, and *of* Alonzo V. Lynde, of Melrose, Massachusetts, and Eliab Parker, of Boston, Massachusetts, and them duly examine on the annexed interrogatories, on oath, touching and concerning certain matters and things in a case now depending in the said court, wherein J. M. B. Reynolds is plaintiff and John Adden *et als. is* defendants, and the same examinations, so taken and reduced to writing, you certify under your hand and seal and send enclosed to this court, to be read in evidence on the trial of said cause; and send also this writ, returnable in 40 days.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of New Orleans, this 5th day of January, anno Domini 1886, and of the Independence of the United States of America the 110th year.

[SEAL] (Signed) E. R. HUNT, *Clerk*.

500 *Interrogatories and Cross-Interrogatories. Filed January* 5, 1886.

Interrogatories.

U. S. Circuit Court, Eastern District of Louisiana.

J. M. B. REYNOLDS *vs.* JOHN ADDEN *et als.* } No. 10405.

Interrogatories to be propounded to Stillman E. Parker, Albert P. Damon, J. H. Adden, and Edward F. Adden, all of Reading, Massachusetts, and to Alonzo V. Lynde, of Melrose, Massachusetts, and to Eliab Parker, of Boston, Massachusetts, witnesses whose testimony is to be taken under commission in behalf of the defendant, John Adden.

1st Interrogatory. What is your name, age, occupation, and where do you reside? Where were you on the 23rd day of March, 1882? If you say you were present at the first meeting of creditors of John H. Adden, insolvent, before the probate court of insolvency for the

county of Middlesex, at Cambridge, on the day above mentioned, state what you were doing there. Was defendant, John Adden, there present? If yea, was he a witness in behalf of any claimant?
501 If yea, for whom did he testify? Did Ambrose Eastman and Walter N. Mason, or either of them, question said John Adden as to said John Adden's place of residence at that time? Did or did not said John Adden state under oath where he resided? Did or did not said John Adden then swear of what State he was a citizen? If said John Adden's testimony was then reduced to writing and the same is now of record please annex a certified copy of said Adden's testimony as there given to your answers to these interrogatories.

2nd Interrogatory. State whether or not at the said first meeting of creditors on March 23rd, 1882, a claim of E. F. Adden against the estate of said John Adden, insolvent, was opposed; and, if yea, who conducted the case for said E. F. Adden, and who examined the witnesses in behalf of said E. F. Adden?

3rd. Did or did not said John Adden at said first meeting of creditors on March 23rd, 1882, state under oath that he was a resident of the State of Massachusetts?

4th. Did or did not said John Adden at said first meeting of creditors on March 23rd, 1882, swear that he was a citizen of the State of Massachusetts?

(Signed) C. S. KELLOGG AND
E. N. WHITTEMORE, *Att'ys.*

502 Affidavit for commission waived.

(Signed) BLANC & BUTLER, *Att'ys.*

Cross-Interrogatories.

United States — Court, Eastern District of Louisiana.

J. M. B. REYNOLDS
vs.
JOHN ADDEN *et als.*
No. 10405.

Counsel for J. M. B. Reynolds, assignee of John H. Adden, plaintiff herein, object to the interrogatories propounded by counsel for defendant, John Adden, to Stillman E. Parker, Albert P. Damon, J. H. Adden, and Edward F. Adden, all of Reading, Massachusetts, and to Alonzo V. Lynde, of Melrose, Massachusetts, and to Eliab Parker, of Boston, Massachusetts, and to the testimony sought to be elicited from said witnesses on the following grounds:

1st. That said defendant, John Adden, is estopped from interrogating any witness or obtaining any evidence for the purpose of showing his residence at the time this suit was brought as being elsewhere than in the State of Massachusetts by the judicial admission contained in the original petition filed by him in the suit entitled John Adden *vs.* John H. Adden, No. 5586, Div. B, civil dis-

trict court, parish of Orleans, wherein it is alleged that he is
503 a resident of Massachusetts.

2nd. That said defendant, John Adden, is, furthermore, estopped by the judicial admission that he was a resident of said State of Massachusetts, as set forth in the petition filed in the suit entitled John Adden *vs.* John H. Adden, No. 5738, civil district court, parish of Orleans, State of Louisiana.

3rd. That he is, furthermore, so estopped by his judicial admission, when he signed the bond of Stillman E. Parker as an assignee of the insolvent estate of John H. Adden, No. 1321, insolvent court of Middlesex county, Massachusetts, that he was a resident of said State of Massachusetts.

Reserving said objections and all other legal objections to the aforesaid interrogatories and to the answers of the witnesses which may be made thereto, counsel for J. M. B. Reynolds, assignee, propound the following cross-interrogatories:

Cross-interrogatory first. If, in answer to the first interrogatory, you say that you were present at a meeting of the creditors of John H. Adden, insolvent, before the probate court of insolvency for the county of Middlesex, at Cambridge, Massachusetts, on the 23rd of March, 1882, and that defendant, John Adden, was then and there present and testified for his own son, E. F. Adden, or for any other person claiming to be a creditor of said insolvent, and that the said John Adden did not, when so testifying, swear that he was a
504 resident of Reading, Massachusetts, you are now called upon to state, in answer to this cross-interrogatory, everything that said John Adden did then and there state in giving his testimony. Have you stated everything that John Adden then and there testified to? Did you or not at the time make a written memoranda of everything that John Adden then swore to in giving his testimony? If you made such memoranda, you are now called upon to annex the same to your answer to this cross-interrogatory. If you made such memoranda, when did you last see it? Where is it now? Why can you not now annex it to your answer to this cross-interrogatory? If you did not make a memoranda in writing of everything that John Adden said in giving his aforesaid testimony on the 23rd of March, 1882, how can you now swear to everything that John Adden then swore to? Explain fully all the data upon which you are able to so refresh your memory as to be able to swear positively, after such a lapse of time, that John Adden did not then swear that he was a resident of Reading, Massachusetts.

Cross-interrogatory second. What is your business, and in what profession or business were you engaged on the 23rd March, 1882? Have you or not read the law of Massachusetts as contained in chapter 143 of the Public Statutes of that State enacted November 19th, 1881, to take effect February 1st, 1882? If yea, do you or not know that, according to the provisions of section 1 of said chapter,
505 the law of Massachusetts then required that the surety on every bond given to the judge of a probate court of Massachusetts must be an inhabitant of the Commonwealth of Massachusetts? Did not John Adden, the defendant in this case, sign and

become the surety on the bond filed by Stillman E. Parker on the 23rd of March, 1882, to enable the said Parker to qualify as an assignee of the insolvency of John H. Adden, then pending in the probate court of Middlesex county, at Cambridge, Massachusetts?

(Signed) BLANC & BUTLER,
Attorneys for J. M. B. Reynolds, Assignee, &c.

506 Depositions of witnesses produced, sworn, and examined on the days hereinafter stated, at the office of A. Selwyn Lynde, a justice of the peace within and for the Commonwealth of Massachusetts, No. 68 Cornhill, Boston, Massachusetts, under and by virtue of the annexed commission, issued out of the circuit court of the United States for the fifth judicial circuit, holding sessions in and for the eastern district of Louisiana, to take depositions in a certain cause pending and at issue, wherein J. M. B. Reynolds *et al.* are plaintiffs and John Adden *et als.* are defendants.

JOHN H. ADDEN, who, being first duly sworn on the Holy Bible, on the ninth day of January, in the year of our Lord eighteen hundred & eighty-six, doth depose and say as follows:

First. To the first interrogatory he saith: My name is John H. Adden; age is 49; out of business at present; residence, Reading. On the 23rd of March, 1882, I was present at the court of insolvency held at Cambridge, Massachusetts, at the 1st insolvency meeting of John H. Adden's creditors, being obliged by law to be present. I was examining the claims presented for allowance before said court.

507 John Adden was present at said meeting; he was called as a witness upon the presentation of E. F. Adden's claim for allowance against said John H. Adden's estate. John Adden at said meeting was not questioned by any one as to his place of residence, and did not state at that meeting where he resided or of what State he was a citizen. Said John Adden's examination was oral and not in writing at said meeting.

Second. To the 2nd interrogatory he saith that the claim of E. F. Adden against said John H. Adden's estate was opposed, and that Alonzo V. Lynde, Esq., conducted the case for said E. F. Adden and examined the witnesses in behalf of said E. F. Adden.

Third. To the third interrogatory he saith: At said meeting of John H. Adden's creditors said John Adden did not state that he was a resident of the State of Massachusetts.

Fourth. To the fourth interrogatory he saith: John Adden, at said first meeting of creditors, March 23, 1882, did not swear that he was a citizen of the State of Massachusetts.

To the first cross-interrogatory he saith: I made no memoranda of John Adden's testimony at said meeting and have only given the

508 substance of said John Adden's testimony, which was as to the amount, value, consideration, and circumstances attached to the claim which E. F. Adden presented for allowance at said meeting against the said estate of John H. Adden. At the time of said hearing I was standing beween Mr. Eastman & Mason & said

John Adden all the time while said John Adden was on the witness stand and testifying at said 1st meeting of John H. Adden's creditors, & I heard all of his testimony. A. V. Lynde, Esq., was also standing near me while conducting this examination. If John Adden had testified to his place of residence as being other than in the State of New Hampshire I should have remembered it, for I knew that he was a citizen of New Hampshire, and had been since the year 1875. I remember that about the time, in September, 1875, he broke his leg, and I visited him in New Hampshire at the time. I know that his home and residence has been in New Hampshire since then to the present time. I knew that said John Adden bought a house in Lancaster, New Hampshire, and occupied it as a homestead with his family upon his removal from Reading, Massachusetts, to Lancaster, New Hampshire, in the year 1875, and has continued to reside there except when away upon business from time to time.

To the second cross-interrogatory he saith: I am out of business at present, and on March 23rd, 1882, I was also out of business, except in assisting my creditors in settling my estate in insolv-
509 ency. I have read section 1 of chapter 143, Public Statutes of Massachusetts, and I understand it to mean that sureties on probate bonds must be inhabitants of said State of Massachusetts. I never saw Stilliman E. Parker's assignee bond, but I understand that John Adden became surety upon — to enable him to qualify as assignee of the estate of John H. Adden, insolvent, then pending in the court of insolvency—not probate court—for the county of Middlesex, in the Commonwealth of Massachusetts. There is no such court as probate court of insolvency. The probate court is a separate court from the insolvency court for the county of Middlesex, the one entirely independent of the other, each having its own seal, separate and independent.

(Signed) JOHN H. ADDEN

Sworn to and subscribed before me this ninth day of January, A. D. 1886.

(Signed) A. SELWYN LYNDE,
Justice of the Peace.

ELIAB PARKER, who, being first duly sworn on the Holy Bible, on the ninth day of January, in the year of our Lord eighteen hundred & eighty-six, doth depose and say as follows:

First. To the first interrogatory he saith: My name is
510 Eliab Parker; age, 32 y'rs; reside in Boston, Massachusetts; occupation, a book-keeper. I was present at the first meeting of the creditors of John H. Adden, held at the court of insolvency at Cambridge, Massachusetts, some time in March, in the year 1882. I was present at the court on that occasion to prove my claim against said John H. Adden's insolvent estate. Mr. Edward F. Adden's claim was presented at said meeting against said John H. Adden's estate & Mr. John Adden was a witness in behalf of its allowance.

I have no remembrance that Ambrose Eastman and Walter N. Mason or either of them asking John Adden as to place of residence at that time. I don't remember whether John Adden stated his place of residence or not. I think John Adden's examination at that time was oral and not in writing.

Second. To the second interrogatory he saith: Mr. E. F. Adden presented a claim against said John H. Adden's insolvent estate at said first meeting, which was opposed. Mr. A. V. Lynde conducted the examination for E. F. Adden, and I was called and testified in behalf of Mr. E. F. Adden as a witness in the matter.

Third. To the third interrogatory he saith: I do not remember that he did testify that he was a resident of Massachusetts. I knew that he was a resident of New Hampshire at that time.

511 Fourth. To the fourth interrogatory he saith: I don't remember that he did testify anything about his residence.

In reply to the 1st cross-interrogatory he saith: I do not know whether or not I made any written memoranda of the testimony of John Adden. My reasons for thinking that he did not testify at said meeting are that he, John Adden, was a resident of Massachusetts; was because I knew him, John Adden, to be at that time a resident of New Hampshire, he having moved to New Hampshire before that time. I visited him at his home in New Hampshire in 1876 or 1877, and I know that he has continued to live in New Hampshire still since then. I do not think that the rest of the interrogatory need be answered by me.

Second. To the second cross-interrogatory he saith: I was a bookkeeper March 23, 1882, and employed by the same concern that I am now in Boston, Massachusetts. I have not read the law contained in Public Statutes of Massachusetts, chapter 143. I know only by hearsay whether or not John Adden was connected with Stillman E. Parker's bond as assignee of John H. Adden's estate in insolvency.

(Signed) ELIAB PARKER.

Sworn to and subscribed before me this ninth day of Jan-
512 uary, A. D. 1886.

(Signed) A. SELWYN LYNDE,
Justice of the Peace.

STILLMAN E. PARKER, who, being first duly sworn on the Holy Bible, on the eleventh day of January, in the year of our Lord eighteen hundred eighty-six, doth depose and say as follows:

First. To the first interrogatory he saith: My name is Stillman E. Parker; age, 66 years; residence, Reading; occupation, shoe business. I was present at the first meeting of the creditors of John H. Adden held at a court of insolvency at Cambridge, county of Middlesex and State of Massachusetts, on March 23rd, 1882. My business at said meeting was to look after a claim I held against said insolvent estate. Two lawyers, whom I have since learned were Ambrose Eastman & Walter N. Mason, did question John Adden, who

was a witness in behalf of E. F. Adden, who had presented a claim against said insolvent's estate for allowance. I heard no inquiries made by either Eastman or Mason as to John Adden's place of residence at that time. I do not remember whether John Adden stated under oath where his residence was at that time, but I think he did not testify as to his residence. I do not think the testimony was taken in writing.

513 Second. To the second interrogatory he saith: A claim of E. F. Adden's against said estate was opposed, and Alonzo V. Lynde conducted the case for said E. F. Adden against said John H. Adden's insolvent estate and examined the witnesses in behalf of said E. F. Adden at said hearing and meeting.

Third. To the third interrogatory he saith: According to my best remembrance, John Adden, at said first meeting, did not say anything about his residence. I think he did not.

Fourth. To the fourth interrogatory he saith: To the best of my remembrance, John Adden, at said first meeting of John H. Adden's creditors, March 23, 1882, did not swear that he was a citizen of the State of Massachusetts.

To the first cross-interrogatory of the plaintiffs he saith: I do not remember making any memoranda of John Adden's testimony at said first meeting of John H. Adden's creditors, March 23, 1882, but, as a matter of fact, I do remember that John Adden testified in behalf of E. F. Adden in the proof of said E. F. Adden's claim against said John H. Adden's insolvent estate. I know positively that John Adden's residence was not in Reading, Massachusetts, at said time and had not been for a number of years; his home and residence at that time was and has been for several years before March

514 23, 1882, in the State of New Hampshire. I had visited John Adden at his home in New Hampshire some time before the year 1882.

Second. To the second cross-interrogatory he saith: I have not read chapter 143 of the Public Statutes of Massachusetts. John Adden, I think, did sign my bond as surety, given by me as one of the assignees of the insolvent estate of John H. Adden, pending in the court of insolvency in and for the county of Middlesex, State of Massachusetts.

(Signed) STILLMAN E. PARKER.

Sworn to & subscribed before me this eleventh day of January, in the year 1886.

(Signed) A. SELWYN LYNDE,
Justice of the Peace.

ALBERT P. DAMON, who, being first duly sworn on the Holy Bible, on the eleventh day of January, in the year of our Lord eighteen hundred & eighty-six, doth depose and say as follows:

First. To the first interrogatory he saith: My name — Albert P. Damon; age, 49 years; merchant; residence, Reading, Massachu.

setts. 23rd day of March, 1882, I was at Cambridge, present at
515 the court of insolvency held for the county of Middlesex, State of Massachusetts. John H. Adden's 1st meeting of creditors took place then and there. I was present to prove my claim against said John H. Adden's insolvent estate. Said John Adden was present at said 1st meeting of John H. Adden's creditors on March 23, 1886, and testified in behalf of Edward F. Adden, who presented a claim, I think ten thousand dollars, against said John H. Adden's estate. Mr. Eastman & Mr. Mason examined Mr. John Adden in regard to the claim of E. F. Adden. My remembrance is that they questioned Mr. Adden as to the validity of the claim and not as to John Adden's residence. I do not think that John Adden's residence was enquired into at that time. If it had been I should have remembered it. Said John Adden's testimony at said hearing and meeting was not reduced to writing.

Second. To the second interrogatory he saith: The claim of E. F. Adden was presented at said John H. Adden insolvent meeting March 23, 1882, and was opposed. Mr. A. V. Lynde conducted the case and examined the witnesses in behalf of said E. F. Adden.

Third. To the third interrogatory he saith: I do not think he did. If he had I should have remembered it, for I well recollect his moving from Reading to New Hampshire about the year
516 1875, for I and my wife assisted him in his preparations to remove. I know as fact that John Adden was not a resident of Massachusetts at the time spoken of. I know that John Adden had been a resident of New Hampshire ever since he moved there about the year 1875. I have visited him several times at his home in the State of New Hampshire since his said removal there, and he is living in New Hampshire at the present time.

Fourth. To the fourth interrogatory he saith: To the best of my recollection he did not swear that he was a citizen of Massachusetts. If he had so sworn I should have remembered it, for I knew him to be at that time a citizen of New Hampshire.

In reply to the first cross-interrogatory he saith: I made no written memoranda of John Adden's testimony at said 1st meeting of John H. Adden's creditors at the insolvency court for the county of Middlesex, held March 23rd, 1882, at Cambridge. I do remember the substance of Mr. John Adden's testimony about E. F. Adden's claim. It was about the validity of E. F. Adden's claim. I remember distinctly there was no discussion about Mr. John Adden's residence at that time. If Mr. John Adden had testified that he was a citizen of Massachusetts I should have remembered it, for I know that his home was then and his residence was then in the State
517 of New Hampshire, where he had resided a number of years before and up to that time, March 23, 1882. I remember distinctly the circumstances attending his removal from Reading, Massachusetts, to the State of New Hampshire. I assisted him in the removal of his things from Reading, Massachusetts, to Lancaster, New Hampshire, where he purchased a house, and afterwards I visited him there on several occasions. I assisted in putting his house at said Reading in repair for new occupants immediately after his said re-

moval to New Hampshire, and know positively that he sold his said Reading house not not long after. All these things made such an impression on my mind that I am enabled to refresh my memory as to the fact. If the point of controversy has been John Adden's residence or if he had testified that he did live in said Massachusetts I should have remembered it. At said John H. Adden's 1st meeting, March 23rd, 1882, I sat in front of John Adden and not more than fifteen feet away from him when he testified in the matters referred to, and I heard his whole testimony. I must have heard all that he swore to in his examination at that time. I remember he testified about the consideration of the E. F. Adden notes, offered in proof at said meeting.

In reply to the 2nd cross-interrogatory he saith: I am a merchant; was a manufacturer of men's furnishing goods March 23, 1882. I have read section 1 of chapter 143 of the Public Statutes of Massachusetts which applies to sureties on probate bonds given in
518 that State. John Adden, I have been informed, did become a surety on the bond of Stillman E. Parker, one of the assignees in insolvency of the estate of John H. Adden. He was, as I am informed, a surety on a bond of said Stillman E. Parker, who was one of the assignees of John H. Adden, insolvent debtor, against whom insolvency proceedings were pending in the court of insolvency for the county of Middlesex, in the Commonwealth of Massachusetts. The insolvency courts of Massachusetts are not the same as probate courts. They are different and separate, and under chapter 157 of the Public Statutes of Massachusetts it is not required that a surety on an insolvency bond shall reside in Massachusetts necessarily.

(Signed) ALBERT P. DAMON.

Sworn to & subscribed before me this eleventh day of January, A. D. 1886.

(Signed) A. SELWYN LYNDE,
Justice of the Peace.

ALONZO V. LYNDE, who, first being duly sworn on the Holy Bible, on the eleventh day of January, in the year A. D. 1886, doth depose and say as follows:

First. To the first interrogatory he saith: My name is Alonzo V. Lynde; age, 62 years; occupation, counsellor-at-law; reside in Melrose, Massachusetts.

519 On March 23rd, A. D. 1882, I was present at court of insolvency, at Cambridge, in the county of Middlesex, Massachusetts, acting as counsel for Ed. F. Adden, a creditor of John H. Adden, insolvent debtor, in the proof of his claim against said insolvent debtor's estate for ten thousand dollars and over. John Adden was present and testified before said court on the proof of said claim.

Either Ambrose Eastman or Walter N. Mason questioned said John Adden about said claim, the consideration, and signature and the delivery of the note to said Edward F. Adden. The question

of the residence of John Adden was not enquired about by any party at that meeting. John Adden did not state or testify where he then resided or of what State he was a citizen. His evidence was not reduced to writing nor any record made of same at said hearing.

Second. In reply to the 2nd interrogatory he saith: I was present at said 1st meeting of creditors on March 23rd, 1882, when said claim of E. F. Adden against the estate of John H. Adden, insolvent debtor, was opposed, and I conducted the case and examined the witnesses in behalf of E. F. Adden. No other counsel acted for E. F. Adden at said hearing and meeting.

Third. To the third interrogatory he saith: I did not hear
520 said John Adden say he was a resident of Massachusetts. I heard the whole of the examination before said court. He was not enquired about his residence and did not state where he resided.

He came from the State of New Hampshire to attend said meeting.

Fourth. In reply to the fourth interrogatory he saith: He did not swear he was a citizen of Massachusetts at said meeting and hearing.

In reply to the plaintiff's cross-interrogatories he saith: First. To the first he saith: I give the substance of all the testimony of John Adden at said hearing, which was that the note of E. F. Adden offered in proof against said insolvent estate was signed by John H. Adden and delivered to him about the day of its date; that the consideration of said note was money or merchandise, and that said note was subsequently delivered by him to E. F. Adden and was the property of said E. F. Adden; that no part of said note has been paid except as appeared by the endorsement thereon, and that said claim was just and not delivered and sold to said E. F. Adden for the purpose of affecting the proceedings in said insolvent estate. I made no written memorandum of what John Adden testified to, but recollect the substance of all his testimony. No memoranda or minutes of his testimony was made by any one that I saw or know of. I have stated substantially all said John Adden testified
521 to and distinctly remember that the question of residence or citizenship was not in controversy and not inquired about, and nothing was said whether he was a resident of Reading or not. I mean by he, John Adden. I am certain that John Adden did not at said hearing and meeting swear he was a resident of Reading.

Second. In reply to plaintiff's second cross-interrogatory he saith: My business now and was March 23rd, 1882, a counsellor-at-law. I have read chapter 143 of the Public Statutes of Massachusetts. I know that section first of said chapter applies to matters in the probate court in reference to sureties on probate bonds, but does not apply to proceedings in the court of insolvency, a distinct and separate court from the probate court of the State of Massachusetts. In the courts of insolvency in said Massachusetts, chapter 157, section 42, there is no requirement where sureties on bonds in said insolvent court shall reside. The word inhabitants, in section 1st of chapter 143 of the Public Statutes, is construed to mean residents, which means a dweller. Said court of insolvency has a separate seal from

the probate court. I think said John Adden signed and became a surety on the bond of Stillman E. Parker, one of the assignees of said insolvent estate, on or about March 23rd aforesaid, but
522 am not certain, as I have not seen the bond for years.

(Signed) ALONZO V. LYNDE.

Sworn to and subscribed before me this the eleventh day of January, in the year 1886.

(Signed) A. SELWYN LYNDE,
Justice of the Peace.

EDWARD F. ADDEN, who, being first duly sworn on the Holy Bible, on the nineteenth day of January, eighteen hundred and eighty-six, doth depose and say as follows:

First. To the first interrogatory he saith: My name is Edward F. Adden; age, 45 years; residence, temporarily at Reading, Massachusetts; business, farmer and dealer in cattle. I was present at the first meeting of John H. Adden's creditors, held on the 23rd March, A. D. 1882, at the court of insolvency for Middlesex county, at Cambridge, Massachusetts, for the purpose of proving my claim against said John H. Adden's insolvent estate. John Adden was present at said John H. Adden first meeting. He was a witness in behalf of my claim and testified in regard to its validity. Neither Ambrose Eastman or Walter N. Mason questioned said John Adden at said meeting as to his, said John Adden's, residence. John Adden did not state under oath at said meeting where he resided;
523 neither did he swear at said meeting of what State he was a resident or citizen. His place of residence and citizenship was not enquired about of him. John Adden's examination was not taken in writing at that said 1st meeting of John H. Adden's insolvent debtors — creditors, March 23rd, 1882.

Second. To the second interrogatory he saith: A claim of E. F. Adden's against the insolvent estate of John H. Adden was opposed at said first meeting of said John H. Adden's creditors, March 23, 1882. A. V. Lynde, Esq., conducted the case for and examined the witnesses in behalf of said E. F. Adden.

Third. To the third interrogatory he saith: Said John Adden did not state under oath at said first meeting of John H. Adden's creditors that he was a resident of the State of Massachusetts.

Fourth. To the fourth interrogatory he saith: John Adden did not swear that he was a citizen of the State of Massachusetts at said meeting of the creditors of John H. Adden March 23, 1882.

To the first cross-interrogatory he saith: I can only give the substance of John Adden's testimony at said 1st meeting of
524 John H. Adden's creditors, March 23, 1882. It was about the notes and claims which E. F. Adden offered to prove against said John H. Adden's estate, their consideration, amount, and validity. I made no memoranda at the time, but I sat within 15 or 20 feet of said John Adden when he was testifying while on the witness stand and heard all of his testimony at said meeting, and, hearing

and knowing as I did that his home and residence was at Lancaster, New Hampshire, where he had resided since the year A. D. 1875, which year he moved from Reading, Massachusetts, to said Lancaster, I should have had stamped indelibly in my mind the fact if he had testified that he was a citizen or resident of any other State than New Hampshire. When he moved to New Hampshire he bought a house there for a homestead and occupied it as such up to about two years ago, when he gave up housekeeping and moved to Northumberland, where he has resided since with me, in said State of New Hampshire. I remember when he moved to New Hampshire that I assisted him in removing his goods and furniture from the railroad to his residence; that his horse ran away and John Adden's leg was broken. He was taken to my place, and as soon as was able was taken to his home in Lancaster, New Hampshire.

To the second cross-interrogatory he saith: My business is that of a farmer and dealer in cattle. My business calls me to Reading, Boston, and other places in Massachusetts four or five times each month. My business March 23, 1882, was that of a farmer
525 and cattle dealer. I have not read chapter 143 of the Public Statutes of Massachusetts. I cannot say whether Stillman E. Parker's bond as assignee of John H. Adden's estate was signed by John Adden as surety.

(Signed) E. F. ADDEN.

Sworn to and subscribed before me this nineteenth day of January, A. D. 1886.

(Signed) A. SELWYN LYNDE,
Justice of the Peace.

I, A. Selwyn Lynde, the undersigned, a justice of the peace within and for the Commonwealth of Massachusetts, do certify that I caused John H. Adden, Eliah Parker, Stillman E. Parker, Albert P. Damon, Alonzo V. Lynde, and Edward F. Adden, witnesses hereinbefore named and examined, to appear before me at the times and place above named, and, after publicly and solemnly swearing each separately to tell the truth, the whole truth, and nothing but the truth in answer to the annexed direct and cross interrogatories, I then and there proceeded to examine each separately by propounding to him the said direct & cross interrogatories and reducing in my presence and that of the witness his answers thereto in writing with my own hand, and then caused each witness to sign his deposition in my presence, as already stated.

In testimony whereof I have hereunto set my hand this
526 the twentieth day of January, in the year 1886.

(Signed) A. SELWYN LYNDE,
Justice of the Peace.

Fees	$25
Witnesses	9
Travel	6
	$40

COMMONWEALTH OF MASSACHUSETTS,
SECRETARY'S OFFICE, BOSTON, *January* 23, 1886.

I hereby certify that at the dates of the attestations hereto annexed A. Selwyn Lynde was a justice of the peace for the said Commonwealth, duly commissioned and constituted; that to his acts and attestations as such full faith and credit are and ought to be given in and out of court; that I believe his signatures to be genuine, and that said justice of the peace is by law authorized to act in any county of this Commonwealth.

[SEAL.] In testimony of which I have hereunto affixed the seal of the Commonwealth the date first above written.

(Signed) HENRY B. PEIRCE,
Secretary of the Commonwealth.

(Figure, symbol of Commonwealth.)

COMMONWEALTH OF MASSACHUSETTS,
EXECUTIVE DEPARTMENT, BOSTON, *January 29th*, 1886.

527 I hereby certify that it is provided by our public statutes that the secretary of the Commonwealth shall have the custody of the State seal; that the official records of the appointment of justices of the peace are kept in his office; that at the date of the certificate hereto annexed Henry B. Peirce was the duly elected and qualified secretary of the Commonwealth, and that his signature thereto is genuine.

(Signed) GEO. D. ROBINSON,
Governor of the Commonwealth of Massachusetts.

COMMONWEALTH OF MASSACHUSETTS,
EXECUTIVE DEPARTMENT, BOSTON, *February 8th, A. D.* 1886.

I hereby certify that at the dates of the attestations hereto annexed A. Selwyn Lynde was a justice of the peace in and for the said Commonwealth, duly commissioned and constituted; that to his acts and attestations as such full faith and credit are and ought to be given in and out of court; that I believe his signatures to be genuine, and that said justice of the peace is by law authorized to act in any county of this Commonwealth.

[SEAL.] In testimony of which I have hereunto affixed the seal of the Commonwealth the date first above written.

(Signed) GEO. D. ROBINSON, *Governor.*

528 *Affidavit of C. S. Kellogg.*

C. S. Kellogg, being sworn, states that the petitions of John Adden and the affidavits thereto in the cases Nos. 5586 & 5738, civil district court, parish of Orleans, were drawn up under affiant's instructions; that said John Adden was absent from the State of Louisiana when said petitions were drawn and when filed; that this affiant did not then know of what State the said John Adden was a citizen or resident, but described him as a resident of Massachusetts because of a telegram dated Boston.

(Signed) C. S. KELLOGG.

Subscribed and sworn before me May 6th, 1886.

(Signed) E. R. HUNT,
Commissioner United States Circuit Court,
Eastern District of Louisiana.

Section 6 of Chapter 76, page 425 of the Revised Statutes of Massachusetts, Published in 1882, and the Original Notes to said Section and the Statutes Referred to in said Notes; also a Section on the same Subject-Matter in a Prior Edition of the Statutes of Massachusetts, a Copy to be Produced, which Has Been Produced and is in the Record.

No person to use in business the name of another without written consent. G. S. 56, § 3. 3 Allen, 76. 109 Mass., 409. 110 Mass., 29.

SECT. 6. No person carrying on business in this Commonwealth shall assume or continue to use in his business the name of a person formerly connected
529 with him in partnership or the name of any other person, either alone or in connection with his own or with any other name or designation, without the consent in writing of such person or of his legal representatives.

United States Circuit Court, Eastern District of Louisiana.

E. & A. H. BATCHELLER & Co.
vs.
JOHN ADDEN *et als.* } No. 10406.

It is agreed that the following copy of the General Statutes of the Commonwealth of Massachusetts, chapter 56, section 3, 298, published in 1860, to wit:

"No person carrying on business in this State shall assume or continue to use in his business the name or names of any persons formerly connected with him in partnership or of any other persons, either alone or in connection with his own or any other name or designation, without the consent in writing of such person or his legal representatives."

Be used in evidence herein in lieu of the original General Statutes of said Commonwealth as published in 1860.

(Signed) BLANC & BUTLER,
Att'ys for Complainants.

(Signed) C. S. KELLOGG AND
E. N. WHITTEMORE,
Solicitors for the Def't, John Adden.

Note of evidence filed Nov. 24, 1883, the same evidence as therein specified, copied at pages 96, 99, *et seq.* of this transcript.

530 *Decree. Entered and Filed* 11 *June*, 1886.

Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana. In Equity. April, 1886, Term.

JOHN M. B. REYNOLDS, Assignee of John H. Adden,
vs.
JOHN ADDEN *et als.*
No. 10405.

This cause came on to be heard at this term of the said court and was argued by counsel; and thereupon, upon consideration thereof, it was ordered, adjudged, and decreed as follows, viz:

That the motion to suppress evidence be overruled, and that the complainant's said bill of complaint be, and the same hereby is, dismissed, and that the injunction herein be, and the same hereby is, dissolved, reserving to the defendant, John Adden, all his rights of action upon the injunction bond.

And it is further ordered that the complainant pay to said defendant the costs of this suit, to be taxed, and that said defendant have execution thereupon, according to the course and practice of the court, and that the respondent have leave to apply to the court for further orders to enable him to obtain the proceeds of the property attached, in the hands of the sheriff of the parish of Orleans.

(Signed) EDWARD C. BILLINGS, *Judge.*

June 11, 1886.

531 *Motion for Appeal to Operate as a Supersedeas. Entered and Filed* 14 *June*, 1886.

U. S. Circuit Court, Eastern District of Louisiana.

J. M. B. REYNOLDS, Assignee of John H. Adden,
vs.
JOHN ADDEN *et als.*
No. 10405.

On motion of Blanc & Butler, solicitors for complainant, and upon respectfully suggesting to the court there is manifest error in the decree of this honorable court rendered and signed on the 11th day of June, 1886, and that the said complainant, feeling aggrieved by such decree, *are* desirous of appealing therefrom to the Supreme Court of the United States, said appeal to operate as a supersedeas—

It is ordered that an appeal to operate as a supersedeas be allowed complainant herein, returnable before the honorable the Supreme Court of the United States, at the city of Washington, D. C., on the 2nd Monday of October, A. D. 1886, upon complainant giving bond and security, conditioned according to law, in the sum of five hundred ($500) dollars.

Bond for Appeal. Filed June 21, 1886.

532 UNITED STATES OF AMERICA:

Know all men by these presents that we, J. M. B. Reynolds, assignee of John H. Adden, and Alexis Bonnecaze, as surety, are held and firmly bound, jointly and severally, unto John Adden, John H. Adden, & Thos. Duffy, civil sheriff of the parish of Orleans, State of Louisiana, and unto each of them, *in solido*, and unto whomsoever it may concern, in the sum of five hundred ($500.00) dollars, lawful money of the United States of America, to be paid to the said John Adden, John H. Adden, Thomas Duffy, civil sheriff of the parish of Orleans, and unto each of them, and unto whomsoever it may concern, and each of *them* their heirs, executors, administrators, representatives, and assigns; for which payment, well and truly to be made, we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated the 17th day of June, in the year of our Lord eighteen hundred and eighty-six.

Whereas the said J. M. B. Reynolds, assignee, &c., having heretofore, to wit, on the 14th day of June, 1886, taken an appeal to the Supreme Court of the United States from and to reverse the decree rendered on the eleventh day of June, 1886, by the circuit court of the United States for the fifth circuit, holding sessions in and for the district of Louisiana, in the suit of J. M. B. Reynolds, assignee of J. H. Adden, *vs.* John Adden, John H. Adden, & Thos. Duffy, civil sheriff parish of Orleans, State of Louisiana, No. 10405 of the docket thereof:

Now, the condition of the above obligation is that if
533 the above-bounden J. M. B. Reynolds, assignee, shall prosecute his said appeal to effect and shall answer all damages and costs if he shall fail to make good his plea, then this obligation shall be void; otherwise to remain in full force and virtue.

Signed, sealed, and delivered in the presence of—

P. p. J. M. B. REYNOLDS, *Assignee.* [L. S.]
(Signed) BLANC & BUTLER, *Solicitors.* [L. S.]
(Signed) A. BONNECAZE. [L. S.]

Approved.
(Signed) ALECK BOARMAN, *U. S. Judge.*

UNITED STATES OF AMERICA, *District of Louisiana,* } *ss:*

Personally appeared Alexis Bonnecaze, who, being duly sworn, deposes and says that he is the surety on the within bond; that he resides in the city of New Orleans, parish of Orleans, State of Louisiana, and is worth the full sum of five hundred dollars over and above all of his debts and liabilities and property exempt from execution.

(Signed) A. BONNECAZE.

Subscribed and sworn before me this 17th day of June, 1886.
(Signed) E. R. HUNT,
Commissioner U. S. Circuit Court, Eastern District of Louisiana.

534 UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana.

CLERK'S OFFICE.

I, Edward R. Hunt, clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, do hereby certify that the foregoing 533 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced, on the trial of the case of J. M. B. Reynolds, assignee, *vs.* John Adden *et als.*, No. 10405 of the docket of the said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 18 day of September, A. D. 1886.

{ Seal U. S. Circuit Court for the 5th Circuit & Eastern District of La. }

E. R. HUNT, *Clerk.*

Edward C. Billings, United States judge for the eastern district of Louisiana, do certify that Edward R. Hunt, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, was at the time of signing said certificate and is now the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 18 day of September, A. D. 1886.

EDWARD C. BILLINGS, *Judge.*

Endorsed on cover: E. Louisiana C. C. U. S. No. 153. J. M. B. Reynolds, assignee of John H. Adden, appellant, *vs.* John Adden, John H. Adden, and Thomas Duffy, civil sheriff of the parish of Orleans. Filed October 11, 1886.

Office Supreme Court, U. S.
FILED,
NOV 25 1889
JAMES H. McKENNEY,
CLERK.

Supreme Court of the United States.

OCTOBER TERM, 1889.

No. 153.

J. M. B. REYNOLDS, ASSIGNEE, ETC.,

versus

JOHN ADDEN ET ALS.

BRIEF ON BEHALF OF J. M. B. REYNOLDS, ASSIGNEE, ETC., APPELLANT.

GUS A. BREAUX,
~~A. E. DICKINSON, JR.,~~

Solicitors for J. M. B. Reynolds, Assignee of J. H. Adden.

A. W. Hyatt, Printer and Stationer, 73 Camp st., N. O.—47688

Supreme Court of the United States.

OCTOBER TERM, 1889.

No. 153.

J. M. B. REYNOLDS, ASSIGNEE, ETC.,

versus

JOHN ADDEN ET ALS.

BRIEF ON BEHALF OF J. M. B. REYNOLDS, ASSIGNEE, ETC., APPELLANT.

STATEMENT OF THE CASE.

On the 10th of March, 1882, John H. Adden made a surrender in the Insolvent Court of Middlesex county, Massachusetts, of all property, rights and credits appertaining to his estate, consisting of about $4000 property situated in that commonwealth; a stock of boots and shoes at No. 58 Customhouse street in the city of New Orleans, valued at $18,000, and some $280,000 of bills, notes and accounts—all of which then were and for many years had been in the possession and under the control and management of John Adden, the father of said insolvent, who is made a defendant in this suit.

On the 16th of March, 1882, after the surrender aforesaid had been accepted by the Insolvent Court of Middlesex county, Massachusetts, and subsequent to a creditors' meeting called to elect one or more assignees, the defendant, *John Adden*, at the time

in Reading, Massachusetts, telegraphed his attorney in New Orleans to commence suit against his son, John H. Adden, in that city on some $20,000 of notes given him by the latter; and to attach the contents of the store, No. 58 Customhouse street, New Orleans, Louisiana. In obedience to said instructions the suit of John Adden vs. John H. Adden, No. 5583 of the Civil District Court of the parish of Orleans was brought, and the stock in trade at No. 58 Customhouse street was attached. In the *petition* filed in that suit it is alleged and *sworn* to that John Adden and John H. Adden are both residents of Reading, Massachusetts.

On the 23d of March, 1882, J. M. B. Reynolds and Stillman E. Parker were elected co-assignees of the estate of J. H. Adden; and John Adden, who was still in Reading, signed the bond of Stillman E. Parker as surety to enable him to qualify as one of the assignees of said estate. In the *bond* given by Parker, which is sworn to by John Adden, it is declared that the latter is a resident of Reading, Massachusetts.

On the 4th of April, 1882, John Adden lingering still in Reading, Massachusetts, instructed his attorney in New Orleans to institute another suit in that city against his said son, J. H. Adden, on certain other notes given him by the latter, amounting to $6283.10 and interest, and ordered him to attach the said property at No. 58 Customhouse street. Suit No. 5738 of the Civil District Court was thereupon immediately commenced.

In each of the above-mentioned suits citation on J. H. Adden was effected by service on George W. Weber as agent, notwithstanding the latter's agency had been legally revoked and cancelled by John H. Adden's surrender in insolvency on the 8th of March, 1882.

On the 15th of April, 1882, judgment *by default* was entered in suit No. 5586 of the docket of the said Civil District Court against John H. Adden and in favor of John Adden for $19,052.64 and interest, and a few days thereafter execution was issued on said judgment, and the entire *stock* in trade at No. 58 Customhouse

street was seized thereunder and advertised for sale to satisfy said writ.

On the 12th of April, 1882, Assignee Reynolds came to New Orleans to take possession of the assets of J. H. Adden, which, according to the schedule, were said to be located at No. 58 Customhouse street, in that city; but he found that John Adden had levied upon everything under his aforesaid writ.

Assignee Parker and John Adden reached New Orleans about the same time; and being *brothers-in-law* and *very friendly*, ate, slept and kept together as long as they remained in said city.

As soon as Reynolds met his co-assignee, Parker, he explained all he knew of the situation, of which he found Parker already fully advised, and urged him to join him at once in an effort to enjoin and set aside John Adden's seizures and judgments, and in that way endeavor to save the bulk of the assets for the creditors of J. H. Adden.

Parker declined positively and peremptorily to interfere with John Adden's suits and seizures, saying John Adden would succeed; and that any attempt to defeat him would only result in a useless waste of money.

Reynolds hesitated to move without his co-assignee, and notified the principal Massachusetts creditors of the embarrassments he was laboring under.

On the 3d of May, 1882, the first attack against John Adden was made by E. & H. Batcheller & Co., creditors of J. H. Adden, for more than $10,000. At their instance the Civil District Court of the parish of Orleans, State of Louisiana, enjoined the sale of the stock, etc., at No. 58 Customhouse street, which otherwise would have taken place on the 10th of May, 1882, to satisfy John Adden's said judgment for $19,052.64.

Again and again Reynolds endeavored to persuade his co-assignee, Parker, that it was their duty to exhaust every means to recover and preserve the property of the insolvent for *all* the creditors; and that they ought to commence suit against the

Addens to break up their transparent conspiracy to defraud the creditors. No admonition of duty, however, had the slightest effect on Parker, who persisted in his refusal to make any effort to defeat or hinder the Addens in thus diverting the property from the creditors.

Being advised that it was unquestionably his duty, under the circumstances, to proceed against John Adden without the co-operation of his co-assignee, Reynolds, in his aforesaid capacity, commenced this suit.

NATURE OF SUIT.

This is a direct action, coupled with an injunction, to annul and set aside the judgment obtained as aforesaid by John Adden, against his said son, John H. Adden, viz.: for $19,062.64 and $5283.10 respectively; and to avoid and dissolve the attachment and execution therein issued on the following grounds, viz.: because—

First. By the surrender of John H. Adden to the Insolvent Court of Middlesex county, Massachusetts, John Adden, a Massachusetts creditor, was prohibited by the laws of that commonwealth from proceeding against the said insolvent, and was debarred from seizing any of the property surrendered by him, though such property was at the time situated in another State; the laws of Massachusetts having full force and effect against her citizens always and everywhere.

Vide Mass. Statutes, 1882, ch. 157, fol. 879, et seq.
Dehon et als vs. Foster et al, 4 Allen 545.
Sturgis vs. Cronninshield, 4 Whet. 122 (419).
Ogden vs. Saunders, 12 Wheat. 213.

Second. The judgment complained of was obtained without *citation;* the pretended service of *citation* on John H. Adden, through George W. Weber, agent, being an absolute nullity, and therefore without any legal effect, because Weber's agency had been previously revoked and cancelled by the surrender made by

John H. Adden to the Insolvent Court of Middlesex county, Massachusetts.

Vide Civil Code, article 3027; C. P. 606, 607; 19 A. 183; 20 A. 541; 22 A. 185, *and 33 A. 1209.*

Third. It does not appear from the record that *any* evidence was offered or received to sustain the jugdment as required by Code of Practice, articles 476, 477, 483, 585, 896, 898 and 899.

21 A. 335; 23 A. 443.

Fourth. The property attached and levied on was not at the time the property of John H. Adden, but belonged under the assignment to his creditors, and was therefore not liable to be seized to satisfy the claim of any *particular creditor.*

Rev. Stat. of La. of 1870, section 1791.

Mass. Laws of 1882, chapter 157, sections 46, 886, and authorities there referred to.

Fifth. John Adden was and is *estopped* by *his judicial admissions* and *his "conduct,"* and by the judgment of the Civil District Court on the rule and exceptions herein taken and filed by defendants, from asserting any claim against the property of his son, J. H. Adden, to the prejudice of the creditors; that judgment being *res adjudicata* as to the said John Adden.

Vide Denton vs. Erwin, 5 A. 22.

Greenleaf on Evidence, section 22.

Judge Houston's opinion rendered Feb. 27, 1883 (transcript, pages 22–25).

12 Wallace 245.

Farrar vs. Stacey, 2 A. 211.

Herman on Estoppel, page 334 et seq.

Sixth. The attachments and judgment complained of, and all proceedings had in connection therewith must be held and decreed to be illegal, null and void, because issued, procured and consummated *in fraud* on the part of John Adden and John H. Adden, and against the rights of the creditors of John H. Adden —the said John Adden and John H. Adden having combined and

confederated together and with others, in that and other ways, to absorb for John Adden the entire estate of John H. Adden. La. C. P. 607.

ON MOTION TO REMAND.

Before dissussing the merits of this controversy we should direct the attention of the court to the fact that this case ought to have been remanded to the State tribunal from which it was illegally removed. We made a timely effort to have it so remanded on the following grounds:

1. The judgments herein sought to be annulled were rendered by the Civil District Court of the Parish of Orleans, State of Louisiana, and that tribunal *alone* had jurisdiction to determine whether its said judgments were valid.

Louisiana Code of Practice, articles 608 and 610; 2 La. A. Reports 493; 15 A. 279; 21 A. 165.

2. The actions for nullity being merely incidental and ancillary to the original suits, and the executions of the judgments therein rendered being exclusively under the control of the courts from which such writs had issued, could not legally be removed to the Circuit Court of the United States, or be determined by any other tribunal.

2 La. A. Reports 323; 4 A. 84; 5 A. 644; 13 A. 253; 16 A. 110.

3. This suit involving a controversy exclusively between citizens of the State of Massachusetts—plaintiff and defendants all being citizens of that commonwealth—the U. S. Circuit Court had no jurisdiction.

It is admitted that Reynolds and John H. Adden are citizens of Massachusetts, but it is contended that John Adden, the only other party to the suit, was not a citizen of Massachusetts at the time his said suits were brought.

(a) That John Adden was then a citizen of Massachusetts is abundantly established by the evidence in the record; his own statement that he is a citizen of Massachusetts in the bond furn-

ished by him in the insolvent proceedings of John H. Adden; his averments in his petitions in the suits of John Adden vs. J. H. Adden, Nos. 5586 and 5738 of the Civil District Court, parish of Orleans; his testimony given in Massachusetts before the Insolvent Court of Middlesex county, in the said insolvent proceedings of J. H. Adden in proof of a claim of his son E. H. Adden, where he swears he is a resident of Reading, Massachusetts; his statement in a bond furnished by himself as assignee in the insolvent proceedings of Damon, Temple & Co., which bond was furnished a few months before the insolvency of J. H. Adden. Transcript, pages 12, 93, 101, 200.

(b) Even if John Adden was not a citizen of Massachusetts he is bound by the proceedings there, for he is estopped by his judical declarations aforesaid and by his participation in said proceedings from disputing their effect as to him.

Greenleaf on Evidence, section 22; Herman on Estoppel, pages 334 et seq.; Farrar vs. Stacey, 2 A. 211; Denton vs. Irvin, 5 A. 22.

(c) The fact that John Adden is controlled and bound by the insolvent proceedings in Massachusetts is not an open question as between the parties to this suit, inasmuch as it was once fully discussed and finally decided in this very case by his honor the judge of the Civil District Court, in a direct issue formally made and presented by said John Adden long before he made any move whatever to have this case transferred from the State to the federal court. On this point the decision of the judge of the State court in this cause is *res adjudicata*. Transcript, pages 22–25.

We submit, therefore, that his honor Judge Billings, sitting as judge of the United States Circuit Court for the eastern district of Louisiana, erred in refusing to remand this cause to the State court on the application of plaintiff's counsel to that effect, filed herein November 9, 1883. Record, page 86. And we think this honorable court should, for the reasons assigned in support of our motion to remand, direct that the decree herein appealed

from be reversed and that this cause be remanded to the Civil District Court of the parish of Orleans, State of Louisiana, to be there proceeded with in accordance with law.

ON THE MERITS.

I.

The recognized principle of equity which pervades the legislation of the whole United States is in favor of the delivery of property by one in insolvent circumstances for general distribution amongst his creditors, that all may share and share alike. The various States have all passed laws to produce this equitable distribution and to prevent all efforts on the part of the insolvent and favored creditors to use the bulk of his estate to the detriment of the mass of creditors, and for the exclusive or particular advantage of any individual one of them.

The laws of Massachusetts have so provided; and it appears that the insolvent in this case has made a voluntary surrender of all his property, including all in Louisiana, to his assignees in the State of Massachusetts – a voluntary transfer, assignment and complete disposal by the insolvent of all his property for the benefit of all his creditors.

John Adden signed a bond as security, with purpose and object to enable the accomplishment of a voluntary surrender; that is to say, to permit the transfer or assignment of all the insolvent's property to the receiver; or, further, to enable his son, the insolvent, to dispossess himself of all title to his property. Upon this showing we make these points:

1. A citizen of Massachusetts is bound by the laws of that State, and cannot seek at the hands of courts in Louisiana a disregard of the insolvent legislation of his own State. More particularly is this true when the attempt in Louisiana is between a creditor and debtor, both of whom are citizens of the State of Massachusetts, and parties to the same insolvent proceedings.

4th Allen 544; 4th Wheaton 122-419; 1st McGloin 329; 4th Wheaton 213.

We propose to show that it is settled that the insolvent laws of the State of Massachusetts are *everywhere* binding *upon citizens of that commonwealth*, and that an assignment thereunder prevents *a Massachusetts creditor* from seizing property in another State which was surrendered under the laws of Massachusetts.

In Baldwin vs. Hale, 1 Wall. 231, 232, the Supreme Court of the United States, after reviewing all that was decided and said in Ogden vs. Saunders. 12 Wheaton 213; Boyle vs. Zacharie, 6 Peters 348; Cook vs. Moffat, 5 Howard 310; Snydam vs. Broadnax, 14 Peters 75, and the other authorities, declared the settled jurisprudence of the country to be that the several States had power to pass insolvent laws *binding upon the citizens of such States*, but had no right to enact an insolvent law which would act upon the rights of citizens of other States. On page 232 the court uses the following language: "Whenever the question has been presented to this court since that opinion was pronounced (referring to Ogden vs. Saunders, 12 Wheaton 213) the answer has uniformly been that the question depended upon *citizenship*."

This question was most carefully considered and wisely determined by Chief Justice Bigelow in Dehon and others vs. Foster and others, 4 Allen 545, and in discussing the effect of the insolvent laws of Massachusetts, there and elsewhere, upon the citizens of the State, said:

"The fundamental principle of the insolvent laws of this commonwealth is, that all the property of the debtor shall be taken and equally distributed among his creditors. To this end it avoids all preferences, and defeats or sets aside all attachments in favor of particular creditors, so that the surrender of the property to the assignees may be universal and complete. * * * It extends to all his property and assets wherever situated. That it was intended to embrace property *in other States and countries* is shown by the provision which requires the debtor to do all acts necessary to give the assignees the rights of those claiming under a voluntary assignment of his estate, especially of any part thereof *which is without this State*. Now, it is clear that the act of the defendants, in causing the property of the insolvent debtors to be

attached *in a foreign jurisdiction*, tends directly to defeat the operation of this law in its most essential features. It prevents a portion of the property of the debtors from coming to their assignees, to be equally distributed among their creditors, and gives a preference to certain of their creditors, by which they will obtain payment of their debt in full. It is, therefore, an attempt by those creditors, *citizens of this State*, to defeat the operation of *our laws*, to the injury of the other creditors of the insolvents. This is manifestly contrary to equity. The defendants, *being citizens of this State, are bound by its laws.* They cannot be permitted to do any acts to evade or counteract their operation, the effect of which is to deprive other citizens of rights which those laws are intended to secure. * * * An act which is unlawful and contrary to equity gains no sanction or validity by the mere form or manner in which it is done. *It is none the less a violation of our laws, because it is effected through the instrumentality of a process which is lawful in a foreign tribunal.*"

And in treating of the effect which the laws of one country are allowed to have in controlling the rights of persons and property *in other countries* Judge Bigelow says on page 553: "As the law of a country can operate beyond its limits only by comity, it shall not be allowed to have any effect *to the injury* OF THE CITIZENS OF THE STATE *whose laws are invoked to carry it into effect.* This is the principle recognized by the decisions of this court, as well as by those of the courts of Pennsylvania. * * * It would, therefore, seem to be clear that it is the duty of this court, having regard to the equities between the parties to this suit, *as created and fixed by our own laws, to restrain the defendants from any attempt to pursue their attachment further in the courts in Pennsylvania.*"

The principles thus enunciated are strictly applicable to the parties now before the court, and show how completely the defendant, John Adden, *a citizen of Massachusetts*, is prohibited by the insolvent laws of that State from seizing the property of his insolvent son in this State or elsewhere.

II.

John Adden cannot succeed in wresting to his own exclusive benefit the common security of all creditors, when his sole claim for so doing is based up on a judgment which bears every mark of collusion, is a palpable fraud, and is a plain subversion of the law against the commission of such an iniquitous wrong. The judgment is inoperative, null and void for the following reasons:

First. As the insolvent proceedings in Massachusetts were binding upon J. H. Adden and upon John Adden, they would necessarily produce the same effect as between their agents. The judgment in this case was rendered upon the citation of one Weber, by virtue of a power of attorney said to have been executed anterior to the insolvency. It is plain that if John Adden could not have sued J. H. Adden, because of the proceedings in Massachusetts, neither could he have sued John H. Adden's agent; for he could not do indirectly what he could not do directly.

Transcript, page 95.

Second. As the insolvency laws of Massachusetts forbade any proceedings against the insolvent under date anterior to the insolvency, John Adden could not, of course, legally sue or prosecute John H. Adden or any one standing for his said son.

Third. The Code of Practice, article 607, provides that a definitive judgment may be annulled in all cases where it appears that it has been obtained through fraud or ill practice on the part of the party in whose favor it was rendered. John Adden has been guilty of ill practice; and therefore his judgment regardless of all claims as to the effect of the laws of Massachusetts upon him individually, is null and void. It is the law that any effort on the part of a debtor and a creditor to procure the payment of a debt due to the latter from the property which constitutes the common security of all the creditors is a legal fraud in this, that it enables the creditor to be paid in preference to others who are equal in rank and right to himself, destroying the common security and making a particular fund for a favored creditor, violating obvious principles of equity and plain dictates of law Has not John Adden done these things, violated these laws committed this illegal act in a manner so plain, so palpable, so transparent, as to make it almost unworthy of contempt? Can it be imagined that the law is constructed in such manner as to lend itself readily to the commission of fraud and to the violation of its own principles?

If it be held wrong for individuals, without invoking the courts, to concoct and collude the injustice and fraud attempted to be practiced in this case, how much more censurable is any attempt on the part of the same individuals to commit the wrong through the color of law! It is precisely these last misuses and abuses of the rules of practice which were intended to be met by article 607 of the Code of Practice.

III

Was the the judgment and are the proceedings of John Adden against his son frauds practiced against creditors of a common debtor, and the result of ill practices on the part of said John Adden seeking to obtain a preference over all other creditors?

The evidences of fraud and ill practices are found and may be enumerated as follows:

1. Simultaneously, or almost so, with the insolvent proceedings the father, by telegram, institutes his proceedings against his son in Louisiana with a view of securing to himself the property of his son, which he, aiding and assisting that son in an insolvent proceeding in Massachusetts, pretends to assign and deliver for the benefit of all creditors.

2. The judgment granted in the proceedings without citation to the son other than by service upon his one-time agent, who at the time was under the control of the plaintiff, who makes no reply, permits the case to go by default, and upon an attempt to execute the judgment aids and abets the judgment creditor in every manner and form.

3. The business in Louisiana was in fact and practice a business of John Adden, and the proceeding to obtain the judgment was practically and in truth a proceeding against himself, but nominally against his son.

4. The very fact that these men chose to begin their insolvent proceedings in the State of Massachusetts instead of Louisiana, where all the property was situated, is suspicious of an in-

tent to tie the hands of the creditors in Massachusetts, where they all lived, in order to permit John Ad len an opportunity to divert the property in Louisiana from them.

5. The continued concealment and evasion from all attempts to obtain the testimony of John Adden and Weber, upon whom was served the citation in the case of John Adden against his son, show a continued understanding between the two, and a persistent attempt to evade all efforts of creditors to obtain the property of the insolvent.

6. The abstraction of all the papers and accounts from the store in New Orleans, and the impossibility of the creditors obtaining any knowledge whatever of the accounts of bills receivable due by the various debtors of John H. Adden, because of obstacles and difficulties, subterfuges and concealments on the part of Weber in collusion with John Adden, are positive proofs of a purpose on the part of the parties in the suits—that is, John Adden and the person upon whom service was made, that is, Weber—to screen the property of the insolvents, to spirit it away, to keep it out of the hands of creditors, to use it exclusively for the purposes of this pretended judgment creditor.

7. No note of evidence is found in the several suits of John Adden vs. John H. Adden; and as far as it is possible to know it the said judgments were obtained without any evidence at all. It is at least odd at the time when all judgments would be closely scrutinized, and in defiance of the law which requires at least two witnesses, or one and corroborating circumstances, to prove an indebtedness, that no note of evidence appears in the record of the the judgment to substantiate Adden's claim for 19,000 and odd dollars.

8. The attempt made by John Adden to procure one Henry Marks to sue upon two notes of $2500 each in the possession of John Adden and for the purpose of said John Adden, shows the purpose of John Adden to use subterfuge and concealment in order

to procure an advantage by process of law, a subversion of the rules of practice for his own ends; and

9. The testimony of Henry Marks that he always regarded it the business of John Adden, and found no account in the books of any salary due from John Adden to his son; which salary it is pretended was the cause of action upon which the said judgment is based.

The following testimony and evidence is particularly relied upon by complainants as the basis of their attack upon the judgments of John Adden against his son in controversy herein, viz.:

The letters from Reynolds to Parker and Parker to Reynolds, record, page 7.

The record of suit 5586, record, page 93.

The testimony of J. M. B. Reynolds, record, pages 105 to 131, 139 to 140, 160 to 161.

The testimony of Mrs. May Weber, record, pages 131 to 135.
" " Henry Weber, record, pages 135 to 139.
" " Thos. Griffen, record, pages 140 to 143.
" " Thos. Bell, record, pages 143 to 145.
" " Chas. Stock, record, pages 145 to 150.
" " Henry Marks, record, pages 150 to 153.
" " F. M. Boise, record, pages 153 to 155.
" " G. J. Barthe, record, pages 155 to 159.
" " Thos. W. Muller, record, pages 159 to 160.
" " Wm. Walsh, record, pages 162 to 176.
" " E. Wurtzburger, record, page 176.
" " John Adden, record, pages 189 to 199.
" " A. Eastman, record, pages 206 to 207.

The *bond* given by *John Adden* as assignee of *Damon, Temple & Co.*, record, pages 200 to 201.

The subpœnas for John Adden and Geo. W. Weber, the attachments and marshal's return, record, pages 34, 209 to 211.

The *bond* given by *S. E. Parker*, with John Adden as security, record, pages 12 to 13.

The *exceptions* of John Adden, record, page 18.

The opinion of Judge Houston on exceptions and rule, record, pages 22 to 25.

The petition to *remove* to United States Circuit Court, record, page 40.

The order refusing removal, record, page 45.

The motion to remand, record, page 47.

The motion to remand refused, record, page 86.

The motion to suppress evidence, record, page 88.

We beg leave to submit the following extracts, some of them from decisions of the highest court of the commonwealth of Massachusetts, which go far to support our appeal for judicial aid to prevent the perpetration of the outrageous fraud attempted by Adden, father, and by Adden, son, in the two suits above indicated, with the object of absorbing for themselves the entire estate, which with one hand they pretended to surrender to the creditors of John H. Adden under the insolvent laws of the State of Massachusetts, and with the other hand they laid violent hold of through the instrumentality and abuse of judicial power in the State of Louisiana.

Equity will relieve against a judgment obtained by default through the fraud of the plaintiff.

May vs. Nannemacher, 111 Mass. 202 (1872):

A and B, partners doing business in Philadelphia and Boston, and domiciled, A in Pennsylvania and B in Massachusetts, assign to C all their assets for the benefit of creditors, by an assignment valid by the laws of Pennsylvania. B was an inhabitant of Massachusetts and had never recognized the assignment. The trustee was also a citizen of Massachusetts.

"The question is made, how far the courts of this commonwealth are bound to recognize assignments of this kind, made in a foreign jurisdiction, when set up against our own citizens, claiming to hold by attachment property of the debtor from with-

in this jurisdiction. This assignment being made for good consideration would have been binding anywhere; and so must be affirmed as valid, especially as it contravenes no Massachusetts policy."

Vail vs. Knopp, 49 Barb. 299:

Plaintiffs held chattel mortgages valid by laws of New York, but not by those of Vermont. The property was in Vermont and was attached there by citizens of New York. It appeared that the suit was malicious and that plaintiffs could not be heard, and their interests would otherwise be prejudiced. Held, suit should be enjoined. Dehon & Foster cited with approval, as also the extract from 2 Story Eq. Jur., section 899 :

"But although the courts of one country have no authority to stay proceedings in the courts of another, they have an undoubted authority to control all persons and things within their own territorial limits. Where, therefore, both parties to a suit in a foreign country are resident within the territorial limits of another country, the courts of equity in the latter may act against these parties and direct them, by injunction, to proceed no further in such suit."

Keyser vs. Rice, 47 Mo. 203 (1877) :

Court enjoined parties from prosecuting an attachment in West Virginia. Cite Dehon & Foster as "learned and lucid." "This jurisdiction is not founded upon any right to control," etc., etc. It is against equity for a creditor to evade the laws of his own country in order thereby to obtain a preference over other creditors. The intention to evade the laws of the State is necessarily presumed when the act is persisted in after knowledge and after the protestation of the complainant and the process of the court.

Snook vs. Snetzer, 25 Ohio State, 516 (1874) :

Judgment was recovered and attachment made in West Virginia of property of the plaintiff which was exempt from attachment by the laws of Ohio. Plaintiff and defendant were both citizens of Ohio. Held, defendant could be enjoined.

"The authority of the courts in such a case to restrain a

citizen from thus proceeding for the purpose named is, in our opinion, clear and indisputable."

Engel vs. Scheneman, 40 Ga. 206 (1869):

A sued B in a Georgia court, and during the pendency of that suit A sued B for the same demand in New York. The Georgia suit was pressed, and the execution therein obtained was satisfied. B was induced by A to believe the New York suit would be abandoned. It was not, but was *pressed to judgment*. Prayer was for an injunction by the Georgia court against enforcing the New York judgment. Prayer was granted. Court holding: (1) That they had jurisdiction to restrain, not the New York proceedings, but the defendant, who was their citizen; (2) that comity did not require a Georgia court to assume that New York courts were more competent to do justice to the plaintiff than they were.

IV.

A *peculiar* point in this case is that John Adden contends that Reynolds as co-assignee of the former's brother-in-law, Parker, could not appear or pursue this action without the appearance and co-operation of said Paker.

The evidence shows that by his seizure and attachment John Adden, the farther of the insolvent, J. H. Adden, was attempting to secure to *himself* all the available assets of the son; that he was attempting to do this by proceedings taken *after* the insolvency declared in Massachusetts; notwithstanding he had appeared and taken part in the insolvent proceedings, and had gone on the bond which qualified Stillman E. Parker as co-assignee of the plaintiff, Reynolds; that he was making this effort to secure for himself all this property by means of *ex parte* proceedings, serving citations on an agent, who had ceased to be an agent, and in suits in which all the parties were citizens of the State of Massachusetts, and had taken part in the insolvent proceedings.

The facts points to and constitute the plainest statement of a

wrong which the elder Adden was seeking to accomplish by an abuse of judicial proceedings.

We found him in the act of gaining his point—on the eve of fruition. His schemes were about to be crowned with success, and the creditors whom Reynolds had sworn to protect were about to be defrauded by *the* Adden who had made Mr. Parker co-assignee, apparently for the honest purpose of an honest administration, but in reality for a purpose which can only be inferred from Mr. Parker's refusal to aid in arresting the plundering suit of his surety—a refusal which we are told prevents Mr. Reynolds from performing his duty, and makes him party to Mr. Parker's friendly solicitude for the success of the elder Adden's involved projects. To assert that a co-assignee may not prevent a wrong to those he represents; may not interfere to arrest the missappropriation of property by one creditor to the injury of all the others; to stop a fraud or attack a wrongful seizure, or enjoin an illegal sale, because his co-assignee when requested refuses to join, is to assert a doctrine monstrous in itself and unsupported by authority. The very object of two assignees is not only to secure joint administration, but to have the one a check upon the other, to enable one to see what the other may ignore; and when a case arises where one joins to defraud the creditors the other is there to prevent it.

The whole theory of the joinder of both of two assignees in a suit for debt is based on the principle that they are joint, not distinct administrators; but in no case was it ever otherwise than right for one of two assignees to enjoin a wrong to arrest a threatened fraud of himself, especially where his co-assignee has refused to aid him. The necessity of joint obligees or obligors being joined all in the same suit has ceased to exist in Louisiana since the statute of December 30th, 1870. Hence under our law the position of our adversary is without the least sanction. Nay, even before the existence of that law, the presence of difficulty, the impossibilty of joining all the jointly interested parties in a suit, was often held a sufficient excuse in law for not joining.

In 3 M. 248 it was held that unless the will required otherwise one of two executors might act alone. Sucession of Farrar. Again, where possible, all *assignees* of a contract should join, but the rule is relaxed when difficult to bring them in. Allard vs. Orleans, 14 La. 27.

No stronger illustration of two persons with equal rights of administration and control could be given than arises in cases of partners, yet it is held that the surviving partner who sues, not to collect a debt, but to annul a sale in which he has a clear interest, need not make the heirs of his partner parties to the suit. Lockhart vs. Harrell, 6 A. 531.

To argue that it is Reynolds' duty to stand by and see the creditors defrauded by Adden, because Mr. Parker (Adden's assignee) does not desire to prevent the wrong, is not a whit less absurd than to assert that Reynolds could not defend a suit against the assignees because Parker did not desire so to do. Even if we admit, for argument's sake, that both assignees should join, if the suit be one voluntarily provoked by themselves, as for the simple recovery of a debt, it is no way analogous to a proceeding instituted to prevent wrong and arrest fraud, or to protect creditors against the efforts of one to obtain a fraudulent preference. It is not necessary for all the *trustees* to join if the parties are numerous, or if it is difficult to secure the joinder. Lerwin on Trusts, 6th ed., 796; 1 Daniell's Chan. Pract. 220; Green's Brice's Ultra Vires 644, note (a). A creditor is even permitted to sue in the interest of all, though there be trustees, if these refuse to act or assume positions prejudicial or inimical to the rights of creditors. 11 Wall. 172, 777; 11 Wall. 459; 16 Wall. 450; 18 Wall. 471; 20 Wall. 117; 3 Dill. 487; 31 Vt. 1, 55; 3 Allen 217; 48 N. Y. 513; 1 Woods 368; Green's Brice's Ultra Vires, p. 644, note (a); Story's Equity Pleading, section 97.

In brief, the points for which we contend are—

1. That to annul a fraudulent judgment, dissolve an attachment of the common property, arrest a wrong and prevent the

appropriation of property by an abuse of judicial proceedings, is of the greatest moment and importance to creditors of the insolvent; and this may be done by any one creditor or other person having an interest, when he does so for the benefit of all.

2. That a trustee, assignee, etc., may sue anywhere to protect the rights of those he represents.

3. That if one of two trustees or assignees declines to act, to protest against a wrong, or annul a wrongful and injurious judgment or seizure, one alone may act.

4. That the true rule is, that any one having any interest to protect may resort to court to do so.

5. That under our law joint obligors or obligees may sue or be sued separately; that by our special enactments, as well as by general law, no joint obligee or trustee is bound to stand by and see the *cestui qui trust* defrauded. Both law and equity command otherwise.

6. That under the laws of Massachusetts the warrant to the messenger and publication divests the debtor of his estate, so that in insolvent proceedings title cannot be made under or from the insolvent after that date by attachment or otherwise. 1st Cir. (Mass) 1847, Perry Manuft'g Co. vs. Brown, 2 Woodb. and M. 449; S. C. 10 Law Rep. 264; 17 Hunt's Mer. Mag., 596. The assignee thereof or receiver may sue for the property anywhere. High on Receivers, section 244.

7. That Adden, father, and Adden, son, being both citizens of Massachusetts, are bound by its insolvent laws.

8. That Adden, father, having appeared in and taken part in the insolvent proceedings in Massachusetts, would be bound by them, even were he a citizen of another State than Massachusetts. 1 Wall. 223; 4 Wall. 409.

Should your honors conclude not to sustain our motion to remand this cause to the State tribunal, which we have urged was improperly refused by the United States circuit judge, we think we have made it abundantly clear by every rule of law and

equity that judgment should be rendered herein in favor of plaintiff and against defendants, as prayed.

ADDENDA.

EXTRACTS FROM STATUTES RELIED UPON BY COMPLAINANTS.

Louisiana Code of Practice, article 607 :

"A definitive judgment may be annulled in all cases where it appears that it has been obtained through fraud, or other ill practices on the part of the party in whose favor it was rendered."

Louisiana Code of Practice, article 608 :

"The nullity of judgment may be demanded from the same court which has rendered the same, or from the court of appeal before which the appeal from such judgment was taken, pursuant to the provisions hereinafter expressed."

Louisiana Code of Practice, article 610 :

"The party praying for the nullity of a judgment before the court which has rendered the same must bring his action by means of a petition; and the adverse party must be cited to appear as in ordinary suits."

Louisiana Civil Code, article 3027 :

"The procuration expires—by the revocation of the attorney; by the renunciation of the power ; by the change of condition of the principal ; by the death, seclusion, interdiction or *failure* of the agent or principal."

Louisiana Revised Statutes of 1870, section 1791 :

"From and after such cession and acceptance all the property of the insolvent debtor mentioned in the schedule shall be fully vested in his creditors ; and the syndic shall take possession of and be entitled to claim and recover all the property, and to administer and sell the same according to law."

Statutes of Mass. of 1882, particularly chapter 157, section 1, pages 879, 880, and sections 43, 44, 46 ; also chapter 143, section 1, page 801.

MEMORANDUM.—The bound volume of the statutes of Mass. of 1882 containing the above cited law was annexed to the tran-

script of appeal herein, and sent forward therewith to the clerk of the Supreme Court of the United States, when the said transcript was lodged in his office (see printed record, page 153). The solicitor for complainant who has prepared this brief has in vain endeavored to have access to a volume of said statutes in New Orleans, from which to print the said law in this brief, and therefore respectfully requests the court to refer to the volume annexed as aforesaid to the original transcript herein.

Respectfully submitted.

GUS A. BREAUX,

[redacted],

Solicitors for J. M. B. Reynolds, Assignee of J. H. Adden.

Supreme Court of the United States.

No. 153.

JOHN M. B. REYNOLDS,
Assignee of John H. Adden, Appellant,

vs.

JOHN ADDEN, JOHN H. ADDEN & THOMAS DUFFY,
Civil Sheriff of the Parish of Orleans, Appellees.

DEFENDANT'S AND APPELLEE'S BRIEF.

A. A. RANNEY & A. V. LYNDE *for Defendants.*

CAMBRIDGE:
WILLIAM H. WHEELER, PRINTER.
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Civil Sheriff of the Parish of Orleans, Appellees.

Appeal from the Circuit Court of the United States for the Eastern District of Louisiana.

DEFENDANT'S & APPELLEE'S BRIEF.

A. A. RANNEY } *for Defendants.*
A. V. LYNDE }

ABSTRACT OF TRANSCRIPT OF RECORD.

March 10, 1882. John H. Adden of Reading, Mass., a wholesale boot and shoe dealer, doing business and having stores in Boston and New Orleans, being largely indebted, among others, to his father, John Adden, petitioned in the Middlesex County (Mass.) Insolvent Court to be declared an insolvent debtor and to have his property assigned for the benefit of his creditors.

Vide. Tr. of Rec. Reynold's Petition, pp. 1 to 5.

March 11. A warrant accordingly was issued from the Insolvent Court against his estate and publication made by the Sheriff under Mass. Statutes.

Tr. of Rec. p. 10, Paper 21.

March 23. At the first meeting of creditors, the plaintiff, Reynolds, and one Parker, were appointed assignees, accepted the appointment, and gave separate bonds for the faithful performance of their duties as Assignees.

Tr. of Rec. p. 12, Papers 24, 25, 26.

March 16. By telegraphic direction of John Adden from Boston to attorneys in New Orleans, a suit was commenced against John H. Adden, upon notes held and owned by John Adden, and an effectual seizure and attachment of John H. Adden's property in New Orleans by the defendant and Civil Sheriff Duffy, and judgment obtained March 29.

Tr. of Rec. p. 93, Paper 190; p. 97, Paper 197; p. 258, Paper 528; p. 96, Paper 195.

April 4. A second suit was commenced by John Adden's direction and another attachment made by the same Sheriff Duffy, and suit still pending.

Tr. of Rec. p. 101, Paper 206.

May 10. Reynolds, the co-assignee, arrived in New Orleans, and in his name alone commenced a suit, or bill in Equity, in the Civil District Court in New Orleans, and praying for an injunction against John Adden, Duffy and John H. Adden from further prosecuting said two suits, on the ground that it was a gross fraud upon him and the creditors of John H. Adden, and that the property seized should be turned over to said Reynolds as Assignee.

Tr. of Rec. pp. 4 and 5, Paper 3; p. 15, Paper 29.

May 24, 1883. Petition of John Adden to remove the cause to the U. S. Circuit Court, on the ground of diverse citizenship under U. S. St. 1875, C. 137, with affidavit and bond filed and order to remove.

Tr. of Rec. pp. 40 to 45, Paper 78, 85.

Nov. 6. Motion to docket the cause on Equity side of U. S. C. Court.

Tr. of Rec. p. 46, Paper 92.

Nov. 9. Motion of Reynolds Assignee to remand the cause to the Civil District Court and refused on *Nov. 26.*

Tr. of Rec. p. 47, Paper 93 and p. 86, Paper 174.

Dec. 5. The cause, without argument, removed to the U. S. Circuit Court and placed on the Equity side of that Court.

Tr. of Rec. pp. 86, 87, Paper 175.

June 11, 1886. A decree entered in the U. S. Circuit Court that the plaintiff's bill be dismissed and injunction dissolved.

Tr. of Rec. p. 260. Paper 530.

June 14 and 21, 1886. Appeal taken by plaintiff to the U. S. Supreme Court, and bond given and appeal perfected.

Tr. of Rec. p. 260, Papers 531, 532.

1. The first contention which arises in this cause is whether the plaintiff Reynolds, the co-assignee with Parker, has in himself alone, without the joinder or consent of Parker, full power to institute and prosecute this suit.

The powers of assignees in insolvency are created and derived from Statutes and are to be strictly construed.

1 Story Eq. Jur. § 96.

The nature of their office is fiduciary, like that of trustees.

Trustees have equal powers, and cannot act separately, unless under some agreement to which the other trustees have bound themselves. It is a general rule of law that a mere naked power given to two cannot be executed by one.

2 Story's Eq. Jur. §§ 1062, 1280.
Hughes *v.* Creditors, 15 La. 448.

In *Blight vs. Ashley, Peters C. C. 15*, it was held that any act done by one Assignee was binding on him in his individual capacity, and not in his representative capacity.

In *Hall vs. Leigh, 8 Cranch 50*, one joint owner of property with the assent of the otner could make a sale and conveyance of a moiety of the joint property.

Syndics of insolvent estates in Louisiana must all join in suits, their powers are joint, not joint and several—one syndicate where others are appointed is not the representative of the creditors.

Relf *v.* Collins 1 La. An. 40 (1830.)
Hughes *v.* Creditors 15 La. An. 448.

The right of action is vested in all the assignees in bankruptcy jointly and the non-joiner of one of them as a plaintiff may be considered as ground of non-suit.

I Ch. Pl. (14 Ed.) pp. 22, 23.

If the Co-assignee Parker had unreasonably refused or neglected to join in the suit in New Orleans, it was within the power of the Insolvent Court of Massachussetts to remove him and appoint another who would join in the suit. Mass. Pub. St. C. 157, §§60 to 69.

2. The reasons for remanding the cause were not valid and the motion to remand properly refused.

The petition for removal to the U. S. Circuit Court, was seasonably made. (*a*) The pleadings in the suit were completed March 28, 1883. (Tr. of Rec. p. 33, Paper 64.) (*b*) The petition for removal was filed May 24, 1883. (Tr. of Rec. p. 40, paper 78), and before the trial by jury as prayed for. (Tr. of Rec. p. 33, "order.")

U. S. St. 1875. C. 137.
Removal cases. 100 U. S. 457.

The issues of fact must be determined by the U. S. C. Ct. upon the petition for removal.

Citizenship, not residence, of the parties is the ground of removal, if there is no dispute as to the amount involved.

Robinson *v.* Case, 97 U. S. 646.
Carson *v.* Hyatt, 118 U. S. 279.
Stone *v.* So. Carolina, 117 U. S. 430.
Carson *v.* Dunham, 121 U. S. 421.

The burden of proof as to the jurisdictional fact is on the petitioner for removal, and his personal oath makes out a *prima facie* case on that fact. Vide affidavit of John Adden (Tr. of Rec. p. 44). Heath *v.* Austin, 12 Blachf. 320. The competency of the evidence offered by Reynolds as well as its weight, tending to show that John Adden was described in his petition and in other legal documents as residing in Massachusetts was a question for the Court in controlling the fact of his actual domicile in New Hampshire.

Vide, affidavit of C. S. Kellogg (Tr. of Rec. p. 258, Paper 528.

Also, Extracts from testimony of John Adden. (Tr. Rec. pp. 77 to 86, Papers 161 to 173.)

Also, Depositions. (Tr. Rec. pp. 216 to 243, Papers 424 to 489.)

The present suit shows, then, by its pleadings, that Reynolds was a citizen of Massachusetts; that by the evidence, John Adden was a citizen of New Hampshire and had been so for more than five years prior to the date of said suit; that the Civil Sheriff of New Orleans and defendant was the attaching officer in the two suits of John Adden and the defendant John H. Adden, the insolvent debtor, were both of them nominal parties who were joined in the suit by the petitioner, but had no interest therein, beyond the injunction.

It is contended by the defendant that there was no error in the refusal to remand the case to the Civil District Court for the reasons set forth in Reynold's motion to remand (Vide, p. 47 Paper 93, Tr. of Rec.) unless it be found in his first reason, viz. that this is not such a suit as was contemplated by St. 1875,

c. 137, because it is an auxiliary or incidental action to the suit of John Adden *v.* John H. Adden.

Reynold's petition is a bill of equity (Tr. of Rec. p. 1, and foot of pp. 3 and 5 Paper 3) in which he alleges "that to per-" "mit said judgment and the proceedings thereunder to have" "effect and execution would enable said John Adden to perpet-" "uate a gross fraud upon petitioner and the creditors of said" "John H. Adden" . . . . and he prays for a decree, "that the" "aforesaid proceedings in said suits" . . . . "numbered 5586" "and 5738 respectively on the docket of this honorable court" "to be absolutely null and void, the attachments therein wrong-" "fully issued and obtained, and the judgment, writ of fieri" "facias and seizure in said suit No. 5586 of the docket illegal" "and without any force or effect: furthermore ordering and" "commanding said civil sheriff to release and turn over to your" "petitioner all the property . . . . seized" to him as Assignee. It may fairly be concluded from this bill in equity or suit that it is not based on any error of form, or for the purpose of a review of John Adden's suits, or upon a contention that the notes in those suits were not made by or due from John H. Adden according to their tenor, but on the contrary it was based on the sole ground of alleged fraudulent proceedings of John Adden and that the property attached was not the property of John H. Adden and a prayer that the entire property seized and attached should be decreed to him as the lawful owner entitled to the property by virtue of his being a duly appointed assignee under the Statutes of Massachusetts and was suit for equitable relief.

Tr. of Rec. p. 1 to 5.
Graines. *v.* Fuentes, 92 U. S. 10.
Bondurant *v.* Watson, 103 U. S. 281.

And it is submitted that it does not come within the principle enunciated in

Barrow *v.* Hunton, 99 U. S. 80.

The third reason for remanding is not maintainable.

The provisions of the St. 1875, C. 137, § 3, are peremptory, that "it shall be the duty of the State Court to accept said petition and bond and proceed no further in said suit."

It does not appear by the record that there was any objection to the form of the petition or to the form or sufficiency of the bond filed by the defendant, or that the defendants had omitted to comply with any requirement of the Statute.

Removal cases, 100 U. S. pp. 468–475.
Insurance Co. *v.* Dunn, 19 Wall 214.
Tex. & St. L. R. Co. *v.* Rust, 17 Fed. R. 275,

3. The Circuit Court has full power to dissolve the injunction and to dismiss the bill, and the evidence was competent and relevant to the issues raised and the motion to suppress it was properly overruled.

Garden City Manf. Co. *v.* Smith, 1 Dill, 305.

(*a*) The notes sued by John Adden (Tr. of Rec. pp. 213 to 216, Papers 418-423) are all contracts to be performed in Louisiana.

Scudder *v.* Union Nat. Bk. 1 Otto, 411, 412.
Story's Confl. of Laws, § 280.
Baldwin *v.* Hale, 1 Wall, 223.
La. Civil Code of 1870, Art. 10.
Hibernia Nat. Bank, *v.* Lacomb. 84 N. Y., 367.

(*b*) A transfer by sale or assignment by operation of law made out of Louisiana of personal property located in that state, without delivery is not valid to pass the title thereto as against creditors.

Story Confl. of Laws (8th *ed.*) §§ 386-391. Notes and Citations of La. cases.
Lanfear *v.* Sumner, 17 Mass., 109.
Crapo *v.* Kelley, 16 Wall, 610.
Wharton Conf. of Laws, §§ 356-390.

Where delivery is by bill of sale, it is not in conflict with the principle.

Abbot on Shipping, pp. 35 and 37, §§ 28, 30.
Southern Bank, *v.* Wood, 14 La. An. 554.

(*c*) The bankrupt laws of a foreign country are incapable of operating a legal transfer of property in the United States.

Harrison *v.* Sterry, 5 Cranch, 302.
Betton Ass. *v.* Valentine, 1 Curtis C. C. 168.
Ogden *v.* Saunders, 12 Wheat. 213.

Insolvent laws of any of the states have no exterritorial operation except by comity.

Taylor *v.* Columbian Ins. Co., 14 Allen (Mass.) 353.
Faulkner *v.* Hyman, 142 Mass. 53.
May *v.* Wannemacher, 111 Mass. 208.
In re Waite, 99 N. Y. 433.
Brent *v.* Shouse, 15 La. An. 110.

(*d*) Assignees appointed under compulsory or statutory proceedings of another state acquire no right or title to property superior to that of attaching creditors who have actual possession by attachment or levy.

Booth *v.* Clark, 17 Howard, 327.
Lee *v.* Creditors, 2 La. An. 603.
Life Ass. of America *v.* Levy, 33 La. An. 1210.

So also, receivers under legal proceedings.

Lichtenstein *v.* Gillett 37 La. An. 522.

In the case at bar the record does not show that Reynolds or Parker, the assignees, had any deed of assignment from the Insolvent Court or from the debtor.

Cutler *v.* Gay, 8 Allen (Mass.) 134.

4. That John Adden was a citizen and domiciled in New Hampshire at the date of all the proceedings in Louisiana is amply shown by his own testimony and that of 17 witnesses whose depositions make a part of the record of the case. Vide Tr. of Rec. pp. 211 to 240.

(*a*) The rights acquired by a non-resident under the laws of Louisiana are held as binding as would be the same rights enforced at the demand of its own citizens.

Lichtenstein *v.* Gillett, 37 La. An. 522.

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A. V. LYNDE, } *for defendants.*